

MEETING AGENDA  
ENVIRONMENTAL PROTECTION COMMISSION  
WALLACE STATE OFFICE BUILDING  
DES MOINES, IOWA  
September 17-18, 1990

Meeting convenes at 10:00 a.m., September 17, 1990 in the fourth floor conference room and reconvenes on September 18, 8:30 a.m.

Appointments:

Marilyn Halterman and Cheryl Darr (September 17) (Item #13) 10:15 a.m.  
Public Participation (September 17) 10:30 a.m.  
Break 3:00 p.m.

*Additional Appointments - See attached list*

1. Approve Agenda.
2. Approve Minutes of August 20-21, 1990.
3. Director's Report. (Wilson) Information.
4. Landfill Alternative Grants. (Hay) Decision.
5. Lien Approval - Harlan and Elaine Pruess. (Combs) Decision.
6. Agreement with UHL for Air Quality and Water Quality Monitoring and Reporting - FY 1991. (Kuhn) Decision.
7. Siouxland Interstate Metropolitan Planning Council Monitoring Contract. (Kuhn) Decision.
8. Budget Request--FY 92/93 Update. (Kuhn) Information.
9. Monthly Financial Report and Last Fiscal Year Report. (Kuhn) Information.
10. Monthly Reports. (Stokes) Information.
11. Final Rule--Chapter 22, Prevention of Significant Deterioration (PSD). (Stokes) Decision.
12. Final Rule--Chapters 100, 104, and 105, Yard Waste Disposal and Composting Facilities. (Stokes) Decision.
13. Final Rule--Chapters 69 and 121, Land Application of Municipal Sewage Sludge and Other Wastes. (Stokes) Decision.
14. Proposed Rule--Chapter 102, Financial Assurance Mechanism for Closure and Postclosure Costs at Sanitary Disposal Projects. (Stokes) Information.

15. Proposed Rule--Chapters 70, 71, 72, 73, 74 and 75, Floodplain Development Permits. (Stokes) Information.
16. Notice of Intended Action--Chapter 63, Monitoring, Analytical, and Reporting Requirements - Effluent Toxicity Testing. (Stokes) Decision.
17. Proposed Rule--Chapter 135 Amendment, Adopting U.S. EPA Rule Changes and Rules on Issuance of a Certificate Evidencing Completion of Remediation. (Stokes). Information.
18. Proposed Rule--Chapter 136, Adopting Rule Changes Made in Federal Regulations. (Stokes) Information.
19. Proposed Contested Case Decision--Donald Ray Maasdam. (Combs) Decision.
20. Proposed Contested Case Decision--Harcourt Water Supply. (Combs) Decision.
21. Proposed Contested Case Decision--John Deere Dubuque Works. (Combs) Decision.
22. Contested Case Order--City of Des Moines. (Combs) Information.
23. Contested Case Appeal--Louisa Courts Water Supply. (Combs) Decision.
24. Contested Case Appeal - IBP, inc. (Combs) Decision.
25. Contested Case Appeal--Robert Coppinger and Velma Nehman. (Combs) Decision.
26. Referrals To The Attorney General. (Combs) Decision.
  - (a) Wayne-Ringgold-Decatur County Solid Waste Management Commission
  - (b) Dwight Brockhouse (Muscatine)
  - (c) Great Dane Fertilizer, Inc. (Audubon)
  - (d) City of Des Moines
  - (e) The New Shack Tavern (Cedar Rapids)
  - (f) Don Ervin (Ft. Dodge)
  - (g) Ron Condon/Dwight Lybarger (Mills County)
27. Legislation. (Combs) Decision.
28. General Discussion Items.
29. Address Items for Next Meeting.

NEXT MEETING DATES

October 15-16, 1990  
November 19-20, 1990  
December 17-18, 1990

The following appointments will need to be added to the agenda:

Monday, September 17

Karlton Fullenworth (Item #13)	1:30 p.m.
Marie Hornecker (Item #13)	1:40 p.m.
Emmett King	1:50 p.m.
Wm. Kurth (Coppinger & Nehman Appeal)	2:00 p.m.
IBP, inc.	2:30 p.m.
Louisa Courts Water Supply (Contested Case Appeal)	3:15 p.m.

Tuesday, September 18

Wayne-Ringgold-Decatur Co. Solid Waste (A.G. Referral)	9:30 a.m.
City of Des Moines (A.G. Referral)	10:00 a.m.
Dwight Brock <sup>house</sup> (A.G. Referral)	10:30 a.m.
Don ERVIN (A-G. Referral)	11:00 a.m.

# ENVIRONMENTAL PROTECTION COMMISSION

Monday, September 17, 1990

NAME	COMPANY OR AGENCY	CITY
Paul V. Noy	City of Sioux City	Sioux City IA
Marilyn Oatman		Carlisle, Ia
Cheryl Darr		Carlisle, Ia
Gladys Nicholls		Carlisle, Ia
Mary O Nicholls		Carlisle Ia.
Robert Main	City of Newton	Newton IA
Jane B. McAlester	Ahlus Law Firm	Des Moines IA
Cynthia Hubert	Dm Register	Dm
Red Brant	Ch Gazette	Dm
NW Salvage	Clare	Harlem Co
Carolyn Hochmuth		Eldon, Ia
DAVID Fox	CLD	Ames, IA
Barbara Pacts	<del>SP</del>	Eldon, Ia.
R. Red Papeun	V&K	WDM
Tom Henderson	Whitfield Law Firm	D.M.
Jack Seem	IABT	D.m
DAN VEST	GROWMARK, INC.	Bloomington, IL.



# ENVIRONMENTAL PROTECTION COMMISSION

Sept. 17, 1990

NAME	COMPANY OR AGENCY	CITY
Dennis E. Weems	IFBF	W. Do Morier
Dale Johnson	Farm Bureau Spokesman	WDM
Marie Hamer		Lakeside, Ia.
Debbie Haggard		Lakeside, Ia.
Jim Smith		Storm Lake
Kristen Fulbright		Storm Lake, Ia.
Committ King		Lakeside - Ia
P. King	Drake U.	D.M. IA
M. Moore	DRAKE U.	R.S.M.
Elizabeth A. Just	Drake U.	Des Moines, IA
Chris Cornelison	Drake U.	
Rob Gaggan	Drake	
Annie Doring	Drake	
Diana Kuehly	Drake U.	
Stephanie Polley	Drake	
Toad Hammon	Drake U.	DM
Bob Rose	Roslin Jr	

# ENVIRONMENTAL PROTECTION COMMISSION

NAME	COMPANY OR AGENCY	CITY
William J. [Signature]	Coppinger / Nehman Appeal	Carroll Ia.
Erwin & Myra Janssen	" " "	Palmer Ia
Robert Coppinger	" " "	Barnum Ia
Richard A. Jochem	IBP, inc.	Dakota City, NE
Tim Rollinger	Iowa Public Service	Sioux City, IA
Shirley Hinkhouse	Louisa Courts	Muscatine, Iowa
Mesa Keloe	Senate Demos	
Tuesday, Sept. 18		
Tim Rollinger	Iowa Public Service	Sioux City
Cindy Turkle	Howard R. Green	DM
Dan Adams	Farm Bureau	WDM
Bernard Conklin	NRD	Grand River
Ray [Signature]	WDD LANDFILL	Lansing
Mesa Keloe	Senate Demos	

# ENVIRONMENTAL PROTECTION COMMISSION

NAME	COMPANY OR AGENCY	CITY
George W. Mulls	City of West Des Moines	
Pat Dorrian	City of D.M.	
Robert A. Dain	Des Moines	
Terrence L. Ammins	City of Des Moines	
Dwight Brackhouse	T.I.D. Dis.	

RECORD COPY *EPC Meeting*  
File Name *ADM-1-1-1 Sept 1990*  
Senders Initials *JS.*

Minutes of the Environmental Protection Commission Meeting

September 17-18, 1990

Wallace State Office Building, Des Moines, Iowa



TABLE OF CONTENTS

SEPTEMBER 1990 COMMISSION MEETING . . . . .	E90Sep-1
MEMBERS PRESENT . . . . .	E90Sep-1
MEMBERS ABSENT . . . . .	E90Sep-1
ADOPTION OF AGENDA . . . . .	E90Sep-1
ADOPTION OF MINUTES . . . . .	E90Sep-2
DIRECTOR'S REPORT . . . . .	E90Sep-2
APPROVAL OF LIEN - HARLAN AND ELAINE PRUESS . . . . .	E90Sep-2
APPOINTMENT - MARILYN HALTERMAN . . . . .	E90Sep-5
APPOINTMENT - CHERYL DARR . . . . .	E90Sep-5
PUBLIC PARTICIPATION . . . . .	E90Sep-5
LANDFILL ALTERNATIVES GRANT CONTRACTS . . . . .	E90Sep-7
AGREEMENT WITH UNIVERSITY HYGIENIC LABORATORY FOR AIR QUALITY AND WATER QUALITY MONITORING AND REPORTING	E90Sep-25
SIOUXLAND INTERSTATE METROPOLITAN PLANNING COUNCIL MONITORING CONTRACT . . . . .	E90Sep-25
BUDGET REQUEST--FY92-93 UPDATE . . . . .	E90Sep-37
FINANCIAL STATUS REPORT AND LAST FISCAL YEAR REPORT	E90Sep-38
MONTHLY REPORTS . . . . .	E90Sep-42
FINAL RULE--CHAPTER 22, PREVENTION OF SIGNIFICANT DETERIORATION (PSD) . . . . .	E90Sep-57
FINAL RULE--CHAPTERS 100, 104, AND 105, YARD WASTE DISPOSAL AND COMPOSTING FACILITIES . . . . .	E90Sep-58
APPOINTMENT - KARLTON FULLENWORTH . . . . .	E90Sep-84

September 1990

Environmental Protection Commission Minutes

APPOINTMENT - MARIE HORNECKER . . . . .	E90Sep-84
APPOINTMENT - EMMETT KING . . . . .	E90Sep-85
FINAL RULE--CHAPTERS 69 AND 121, LAND APPLICATION OF MUNICIPAL SEWAGE SLUDGE AND OTHER WASTES . . . . .	E90Sep-85
CONTESTED CASE APPEAL/ROBERT COPPINGER AND VELMA NEHMAN . . . . .	E90Sep-105
APPOINTMENT - WILLIAM KURTH (Coppinger & Nehman Appeal) . . . . .	E90Sep-105
CONTESTED CASE APPEAL--IBP, inc. . . . .	E90Sep-108
APPOINTMENT - RICHARD JOCHUM (IBP, inc.) . . . . .	E90Sep-108
COMMISSIONER TEMPORARILY ABSENT . . . . .	E90Sep-109
CONTESTED CASE APPEAL--LOUISA COURTS WATER SUPPLY . . . . .	E90Sep-109
APPOINTMENT - SHIRLEY HINKHOUSE . . . . .	E90Sep-110
RECESS . . . . .	E90Sep-111
MEETING RECONVENES 8:30 A.M., TUESDAY, SEPTEMBER 18, 1990 . . . . .	E90Sep-111
PROPOSED RULE--CHAPTER 102, FINANCIAL ASSURANCE MECHANISM FOR CLOSURE AND POSTCLOSURE COSTS AT SANITARY DISPOSAL PROJECTS . . . . .	E90Sep-111
PROPOSED RULE--CHAPTERS 70, 71, 72, 73, 74 AND 75, FLOODPLAIN DEVELOPMENT PERMITS . . . . .	E90Sep-126
NOTICE OF INTENDED ACTION--CHAPTER 63, MONITORING, ANALYTICAL, AND REPORTING REQUIREMENTS - EFFLUENT TOXICITY TESTING . . . . .	E90Sep-148
PROPOSED RULE--CHAPTER 135, ADOPTION OF U.S. EPA RULES ON ISSUANCE OF A CERTIFICATE EVIDENCING COMPLETION OF REMEDIATION . . . . .	E90Sep-153

## PROPOSED RULE--CHAPTER 136, ADOPTION OF RULE CHANGES

## MADE IN FEDERAL REGUALTIONS - FINANCIAL

RESPONSIBILITY FOR UST'S . . . . . E90Sep-155

PROPOSED CONTESTED CASE DECISION--DONALD RAY MAASDAM E90Sep-160

REFERRALS TO THE ATTORNEY GENERAL . . . . . E90Sep-162

APPOINTMENT - CINDY TURKLE . . . . . E90Sep-162

APPOINTMENT - GEORGE MILLS . . . . . E90Sep-163

APPOINTMENT - JOHN "PAT" DORRIAN . . . . . E90Sep-164

APPOINTMENT - DWIGHT BROCKHOUSE . . . . . E90Sep-165

APPOINTMENT - DON ERVIN . . . . . E90Sep-166

APPOINTMENT - JOHN SCIEGZINSKI . . . . . E90Sep-167

COMMISSIONER ABSENT . . . . . E90Sep-167

## PROPOSED CONTESTED CASE DECISION--HARCOURT WATER

SUPPLY . . . . . E90Sep-171

## PROPOSED CONTESTED CASE DECISION--JOHN DEERE DUBUQUE

WORKS . . . . . E90Sep-172

CONTESTED CASE ORDER--CITY OF DES MOINES . . . . . E90Sep-173

LEGISLATION PACKAGE - 1991 . . . . . E90Sep-173

GROUNDWATER PROGRAM STATUS REPORT . . . . . E90Sep-218

GENERAL DISCUSSION ITEMS . . . . . E90Sep-218

COMMITTEE APPOINTMENTS . . . . . E90Sep-219

ADJOURNMENT . . . . . E90Sep-219

INDEX . . . . . E90Sep-221



SEPTEMBER 1990 COMMISSION MEETING

The meeting of the Environmental Protection Commission was held in the Wallace State Office Building, Des Moines, Iowa, convening at 10:00 a.m. on September 17, 1990.

MEMBERS PRESENT

Mike Earley, William Ehm, Richard Hartsuck, Rozanne King, Charlotte Mohr, Gary Priebe, and Clark Yeager.

MEMBERS ABSENT

Margaret Prah1, Nancylee Siebenmann

ADOPTION OF AGENDA

The following appointments were added to the agenda:

Monday, September 17

Karlton Fullenworth (Item #13) - 1:30 p.m.  
Marie Hornecker (Item #13) - 1:40 p.m.  
Emmett King (Item #13) - 1:50 p.m.  
Wm. Kurth (Coppinger & Nehman Appeal) - 2:00 p.m.  
IBP, inc. - 2:30 p.m.  
Louisa Courts Water Supply representative - 3:15 p.m.

Tuesday, September 18

Wayne-Ringgold-Decature Co. Solid Waste representative - 9:30 a.m.  
City of Des Moines (A.G. Referral) - 10:00 a.m.  
Dwight Brockhouse - 10:30 a.m.  
Don Ervin - 11:00 a.m.

*Motion was made by Richard Hartsuck to approve the agenda as amended. Seconded by William Ehm. Motion carried unanimously.*

ADOPTION OF MINUTES

*Motion was made by Mike Earley to approve the minutes of August 20-21, 1990 as presented. Seconded by Gary Priebe. Motion carried unanimously.*

DIRECTOR'S REPORT

Larry Wilson, Director, distributed information on an upcoming seminar addressing water quality issues.

Director Wilson reported that a public meeting was held last Saturday night regarding Lizard Lake. 130 people were in attendance, with approximately 125 in support of some type of a restoration project. The meeting concluded with the appointment of several leaders to work with department staff to present their ideas for restoration for the betterment of Lizard Lake.

APPROVAL OF LIEN - HARLAN AND ELAINE PRUESS

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

The Commission is requested to approve the attached lien. Iowa Code section 455B.396 provides that liability to the state for the costs of cleanup of a hazardous condition is a debt to the state which is a lien on real property on which the department incurs costs and expenses and owned by the persons liable. A statement of claim must be filed with the county recorder within 120 days after the incurrence of costs and expenses by the department. The department expended \$112,023.37 for the safe removal of approximately 13,000 bushels of corn contaminated by aflatoxin, in May, 1990. The department demanded payment of this amount from Harlan Pruess and the United States Department of Agriculture, which demand may be appealed to the Commission.

NOTICE OF LIEN  
STATEMENT OF CLAIM

Notice is hereby given that the State of Iowa, in accordance with Iowa Code section 455B.396, hereby claims a lien against the real property owned by Harlan Pruess, Jr. and Elaine L. Pruess, husband and wife. The real property against which the lien is claimed is located at and is legally described as:

The NW 1/4 of the NE 1/4; the E 1/2 of the SE 1/4 of  
the NE 1/4; the SE 1/4 of the SE 1/4 and the SW 1/4  
of the SE 1/4 of Section No. 8;

and

the W 1/2 of the SW 1/4 of the NW 1/4 of Section No.  
9;

and

the SE 1/4 of the SW 1/4; the SW 1/4 of the SE 1/4  
and the SE 1/4 of the SE 1/4 of Section No. 5;

and

the SE 1/4 of the NE 1/4, except the E 333.5'; the S  
1/2 of the NE 1/4 of the NE 1/4; the E 1/4 of the S  
1/2 of the NW 1/4 of the NE 1/4 and the SW 1/4 of the  
NE 1/4 of Section No. 17, all in Township No. 81  
North, Range No. 1, West of the Fifth P.M. in Cedar  
County, Iowa.

This lien on the above-described property is necessary in order to satisfy the debt which the State of Iowa incurred as a result of the removal, transportation and disposal of approximately 13,000 bushels of aflatoxin-contaminated corn. These hazardous substances were being stored at the above-described property in a manner which constituted a hazardous condition as defined by Iowa Code section 455B.381(2).

The costs incurred by the State of Iowa as a result of the above-described actions constitute cleanup costs for which Mr. Harlan Pruess, Jr. and Elaine L. Pruess, d/b/a Pruess Elevator Co. are liable pursuant to Iowa Code section 455B.392. The amount of this claim is \$112,023.37.

\_\_\_\_\_  
LARRY J. WILSON, DIRECTOR  
DEPARTMENT OF NATURAL RESOURCES

\_\_\_\_\_  
DATE

Subscribed and sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_,  
1990.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

Approved by the Environmental Protection Commission on \_\_\_\_\_ day of  
\_\_\_\_\_, 1990.

\_\_\_\_\_  
CHARLOTTE MOHR  
CHAIRPERSON

\_\_\_\_\_  
DATE

E90Sep-3

Mr. Murphy stated that staff is requesting approval to file a lien in the matter of Harlan Pruess involving cleanup of aflatoxin contaminated corn. He related that the statute provides that a person having control over a hazardous condition is liable to the state for cleanup costs. Mr. Murphy noted that a lien on the property must be filed within 120 days after costs are incurred.

Chairperson Mohr asked if the lien is against all of Mr. Pruess' land and why the U.S. Department of Agriculture is not included.

Mr. Murphy responded that the lien is good only on the property in which the cleanup occurred, and therefore, the department cannot file a lien against the federal government. He added that the department will be making a claim to the U.S. Department of Agriculture and to the FMHA also.

Mike Earley asked if the lien should include the date expenses were incurred.

Mr. Murphy replied that the date can and will be shown on the lien.

*Motion was made by Richard Hartsuck to approve the lien against real property owned by Harlan and Elaine Pruess subject to inclusion of the date expenses were incurred. Seconded by William Ehm.*

Gary Priebe stated that he has a real tough time with this as he feels it could have been handled better and with less expense if the department had looked at other alternatives rather than hauling it. He added that he has a real problem with putting a lien on a person's property when everyone involved is not included.

Director Wilson commented that staff looked at all the alternatives and listened to the proposal for on-site disposal. Staff decided that with the information available from past experience regarding on-site disposal, it was the best protection of the environment and the public to remove the corn for out-of-state disposal. Mr. Wilson related that he and his staff will do everything they can to see that FMHA and USDA help pay the disposal costs.

Mr. Murphy stated that a notice will of claim will be sent to Mr. & Mrs. Pruess, FMHA, and USDA. The notice will spell out their appeal rights.

Chairperson Mohr requested a roll call vote on Commissioner Hartsuck's motion to approve the lien. "Aye" vote was cast by Commissioners Earley, Ehm, Hartsuck, King, and Mohr. "Nay" vote was cast by Commissioner Priebe. Motion carried on a vote of 5-Aye to 1-Nay.

APPOINTMENT - MARILYN HALTERMAN

Marilyn Halterman, resident of Carlisle, addressed the Commission expressing concerns with the rules on Chapters 69 and 121 regarding land application of municipal sludge. She outlined portions of the rules she does not agree with and made suggestions as to how she would like to see them changed. She distributed information on Listeria and expanded on health factors. Ms. Halterman added that education is needed for the people who are using the sludge, and also good restrictions are needed from the state. She asked the Commission to proceed very cautiously to make sure this is a safe practice.

APPOINTMENT - CHERYL DARR

Cheryl Darr, resident of Carlisle, expressed concerns with rules regarding land application of municipal sludge. She listed a number of areas where she disagreed with the rules. She suggested that the state, not the livestock producer, should make the determination when it is safe for animals to graze on sludge applied crops. She also recommended that there be a maximum percentage of slope where sludge can be applied and not incorporated. Ms. Darr stated that on snow covered or frozen ground it does not require an application pattern and she recommended that DNR be notified before that application takes place. In conclusion, she asked the Commission to consider her recommendations before approving the rule.

PUBLIC PARTICIPATIONTed Payseur

Ted Payseur, representative for Iowa Water Pollution Control Association, stated that in development of the land application rules the Association went from stark terror, to deep concern, to general satisfaction. He emphasized that they appreciate what has been done with the rules and he commended Allan Stokes and his staff for working with the Association on these rules. Mr. Payseur suggested that in the future, staff ask technical representatives and other citizens to sit in on development of rules from early on.

Tom Henderson

Tom Henderson, representative for the City of Grimes, stated that he plans to be on the October meeting agenda for a more detailed

presentation to address the Yard Waste Disposal and Composting Facilities rules. He added that the City of Grimes is currently facing the placement of a compost facility in their area and are very concerned about these rules. He asked the Commission to refer the rules back to staff until the October meeting to answer a few questions they would like to raise. Mr. Henderson noted that the rule allows a permit exemption under certain conditions and he would like further explanation of that rule. He also expressed concern with the rule in regards to collection ponds, as well as the fact that there is no requirement for an environmental impact study or site assessment.

#### Barbara Pauls

Barbara Pauls, resident of Eldon, Iowa expressed concerns with the proposed medical waste disposal and treatment facility for the City of Eldon. She noted that a total of 52 million pounds of infectious medical waste would be handled annually in Iowa, with most of it coming from outside Iowa. She stated that there are a lot of problems with large incinerators now operating in the United States. Ms. Pauls added that the facility would be located on an old, closed landfill and there has not been a geologic study made as to whether this would be a safe site. She related that the site is near a watershed that leads directly into the Des Moines River, and in the event of an accident it would wash into this watershed. She stated that a facility of this nature should not be allowed in close proximity to a populated area. In conclusion, Ms. Pauls stated that she would like it if the facility was not allowed in Eldon, but if it has to be, she asked that the state develop strict regulations with regards to handling, disposal and transportation of infectious medical waste in Iowa.

#### Carolyn Higgenbottom

Carolyn Higgenbottom, resident of Eldon, stated that she would like to make the Commission aware that they have a community that is very upset, very concerned, and are trying to learn what infectious medical waste is and what it means to the community. She stated that if this industry must be in Iowa she would ask the Commission to regulate it so that it can be done safely.

#### Don Balvanz

Don Balvanz, Hardin County Supervisor, addressed the Commission expressing concerns relating to construction debris for use as erosion control. He asked the Commission to consider rulemaking to allow erosion control through the use of construction debris.

LANDFILL ALTERNATIVES GRANT CONTRACTS

Teresa Hay, Division Administrator, Waste Management Authority Division, presented the following item.

A total of nine applications were selected for funding in the current round of the Landfill Alternatives Grant program. Two contracts are under \$25,000: Gerald & Sandy's Recycling in Fayette County and Grinnell 2000. Six contract summaries follow, with budgets and scopes of work attached. Negotiations have not been completed to date on the final proposed contract with Marshalltown (composting project). The Commission is requested to approve the attached six contracts at this time.

#### Skyline Center

Skyline Center in Clinton will use a grant of \$118,170 to implement a recycling facility that will service Clinton County. Skyline Center has received a Community Development Block Grant to construct a recycling facility. A grant from DNR will aid in the purchase of equipment for the operation. The center will be processing glass, plastic, metal, and paper as part of the program. Collection of the materials will be done using curbside collection methods in Clinton and other small communities and by drop-off locations throughout the county.

#### Spectrum Industries

Spectrum Industries, located in Decorah, will use a grant of \$68,380 to expand their current recycling center by purchasing processing equipment. The project, serving Winneshiek County, will collect and process plastic, metals, paper and glass. The collection of the material is done via drop-off locations.

#### Siouxland Recovery

Siouxland Recovery, with a grant of \$160,000, will purchase a conveyor and baler which will allow for an expansion of the volume of paper being processed by the facility and to begin processing white goods. The project, located in Sioux City, will be able to process white goods from a large portion of northwest Iowa.

#### City of Council Bluffs

The City of Council Bluffs, with the aid of this grant, will be expanding the composting capabilities of the mechanized separation system to be used for solid waste generated in Council Bluffs. The grant of \$170,000 will be for the purchase of an in-vessel composting vessel. The in-vessel method of composting

September 1990

Environmental Protection Commission Minutes

is expected to decrease the time needed for composting and increase the quality of the final product.

Iowa Plastics, Inc.

Iowa Plastics of Sioux Center (Sioux County) will be using the \$94,300 grant to aid the implementation of a plastic recycling business. Iowa Plastics will be accepting post-consumer plastics from other recycling centers and commercial outlets. The product will be four (4) by eight (8) foot sections of plastic board. The plastic products will mainly be marketed for agricultural uses.

City of Ottumwa

The City of Ottumwa will be implementing a recycling facility that will service both Wapello and Davis Counties. The grant of \$256,000 will enable the purchase of processing equipment for the program. Plastic, glass, metal, and paper will be collected via curbside and drop-off collection. The program will also be accepting and recycling solvents, paint thinners, waste motor oil and antifreeze.

(Scope of Work and accompanying budgets shown on the following 16 pages)



## Skyline Center

### SCOPE OF WORK

1. The Contractor shall implement a recycling program in Clinton County. The program shall include methods to collect, process and market recyclable materials.
2. The Contractor shall establish a specific education strategy dealing with recycling. The strategy will consist of promotional and educational materials that will be distributed to the public to increase citizen participation in the recycling program.
3. The Contractor shall investigate the potential markets available for the recyclables and, where potential exists, solicit bids for the purchase of the recyclable materials. Preference for the purchase of the recyclables that are collected and processed by the Project shall be given to Iowa companies. Where appropriate, contracts for the sale of recyclables will be obtained. The Contractor will include in the final report an analysis of the available markets and those utilized for the Project.
4. The Contractor shall prepare detailed plans for the recycling center and detailed specifications for the collection program. The Contractor will pursue rental and donation options for all buildings and equipment used in the recycling center and for the collection program. The Contractor will submit plans and specifications for the recycling center to the Environmental Protection Division of the Department and shall receive approval from the Department before construction of the recycling center begins.
5. The Contractor shall purchase any piece of equipment specified in the plans costing over \$10,000 on a competitive basis. The Department shall fund the purchase of equipment only after the Contractor documents that items 5.2, 5.3, and 5.4 have been addressed and receives approval from the Department. The Contractor would, however, by mutual agreement with the Department and provided the permit requirements are met, be allowed to purchase certain items of equipment useful to the recycling operation before sections 5.2, 5.3, and 5.4 have been addressed.

The purchase of equipment will be cost shared with the Department at a 10% local share of the actual purchase price of the equipment identified in Appendix A, Budget. The title of the property purchased by the Contractor shall remain vested with the owner of the Project. In the event that the Project fails and any equipment is sold for up to five years after the end of the contract, the Department shall be paid a percentage of the sale price equal to the percentage of grant money used to purchase the property.
6. The Contractor shall submit monthly reports on the Project. The reports are due on the 15th of every month. The reports shall discuss the status of the Project.
7. The Contractor shall monitor the collection routes during the term of the contract. The Contractor shall determine the number of stops, and the

quantity of recyclable materials collected from collection routes and citizen drop-off. This information shall be included in the monthly report.

8. The Contractor shall develop a pictorial history via slides of the Project complete with data on project development from early initiation through construction, start-up and contract completion necessary for presentation of the project at Waste Management Conferences, trade journals and other sources to disseminate the results of the project. The Contractor shall conduct at least one media-notified open house after the Project is operational and will encourage visits at other times on a scheduled basis.
9. The Contractor shall make any information on the Project resulting from this grant readily available, as this will be considered to be public information.
10. The Contractor shall submit a final report on the project. The final report will include:
  - 1) Information on the amount of recyclable material collected during the term of this Contract, citizen participation rates, operation and maintenance costs, waste diverted from the landfill and future expectations in these areas.
  - 2) The environmental impact of the Project.
  - 3) Assessment of the viability of conducting this type of project in other communities, counties and regions within the state of Iowa.
  - 4) Details on all aspects of the Project during the term of the contract.

Budget

ITEM	DNR GRANT	COST SHARE	TOTAL COST
Cleated Conveyors	\$4,500	\$500	\$5,000
Horizontal Conveyors	\$10,800	\$1,200	\$12,000
Tipping Tables	\$9,900	\$1,100	\$11,000
Horizontal Baler	\$54,000	\$6,000	\$60,000
Scale	\$4,050	\$450	\$4,500
Forklift	\$25,200	\$2,800	\$28,000
Metal Bins	\$9,720	\$1,080	\$10,800
Office Equipment		\$1,500	\$1,500
Salaries		\$183,405	\$183,405
Engineering Fees		\$46,000	\$46,000
Supplies		\$4,175	\$4,175
Training/Development		\$9,000	\$9,000
Building/Construction		\$575,000	\$575,000
Other		\$11,520	\$11,520
TOTALS	\$118,170	\$843,730	\$961,900

(RR-243D.MS)

## Spectrum Industries

### SCOPE OF WORK

1. The Contractor shall implement a recycling operation in Winneshiek County. The program shall include methods to collect, process and market recyclable materials.
2. The Contractor shall establish a specific education strategy dealing with recycling. The strategy will consist of promotional and educational materials that will be distributed to the public to increase citizen participation in the recycling program.
3. The Contractor shall investigate the potential markets available for the recyclables and, where potential exists in the immediate area, solicit bids for the purchase of the recyclable materials. Preference for the purchase of the recyclables collected will be given to Iowa companies. Where appropriate, contracts for the sale of recyclables will be obtained. The Contractor will include in the final report an analysis of the available markets and those utilized for the Project.
4. The Contractor shall prepare detailed plans for the recycling center and detailed specifications for the collection program. The Contractor will pursue rental and donation options for all equipment used in the recycling center and for the collection program. The Contractor will submit plans and specifications for the recycling center to the Environmental Protection Division of the Department and shall receive approval from the Department before construction of the recycling center begins.
5. The Contractor shall purchase any piece of equipment specified in the plans costing over \$10,000 on a competitive basis. The Department shall fund the purchase of equipment and buildings only after the Contractor documents that items 5.2, 5.3, and 5.4, have been addressed and receives approval from the Department. The Contractor would, however, by mutual agreement with the Department and provided the permit requirements are met, be allowed to purchase certain items of equipment useful to the recycling operation before sections 5.2, 5.3, and 5.4, have been addressed.

The purchase of equipment will be cost shared with the Department at a 10% local share of the actual purchase price of the equipment identified in Appendix A, Budget. The title of the property purchased by the Contractor shall remain vested with the owner of the Project. In the event that the Project fails and any equipment is sold for up to five years after the end of the contract, the Department shall be paid a percentage of the sale price equal to the percentage of grant money used to purchase the property.

6. The Contractor shall submit monthly reports on the Project. The reports are due on the 15th of every month. The reports shall discuss the status of the Project.
7. The Contractor shall monitor the drop-off containers during the term of

the contract and determine the quantity of recyclable materials collected from the citizen drop-off stations. This information shall be included in the monthly report.

8. The Contractor shall develop a pictorial history via slides of the Project complete with data on project development from early initiation through construction, start-up and contract completion necessary for presentation of the project at Waste Management Conferences, trade journals and other sources to disseminate the results of the project. The Contractor shall conduct at least one media-notified open house after the project is operational and will encourage visits at other times on a scheduled basis.
9. The Contractor shall make any information on the Project resulting from this grant readily available, as this will be considered to be public information.
10. The Contractor shall submit a final report on the Project. The final report will include:
  - 1) Information on the amount of recyclable material collected and processed during the term of this Contract, citizen participation rates, operation and maintenance costs, waste diverted from the landfill and future expectations in these areas.
  - 2) The environmental impact of the Project.
  - 3) Assessment of the viability of conducting this type of project in other communities, counties and regions within the state of Iowa.
  - 4) Details on all aspects of the Project during the term of the contract.

Budget

ITEM	DNR GRANT	COST SHARE	TOTAL COST
Salaries/Expenses		\$30,000	\$30,000
Fork Lift	\$4,500	\$500	\$5,000
Materials Containers	\$34,000	\$34,000	\$68,000
Transportation		\$25,000	\$25,000
Downstroke Baler	\$4,500	\$500	\$5,000
Horizontal Baler	\$18,900	\$2,100	\$21,000
Glass Crusher	\$4,680	\$520	\$5,200
Conveyor	\$1,800	\$200	\$2,000
Other Collection Units		\$3,000	\$3,000
Other Direct Charges		\$18,720	\$18,720
Indirect Charges		\$23,335	\$23,335
TOTALS	\$68,380	\$137,875	\$206,255

(RR-247.MS)

## Siouxland Recovery

### SCOPE OF WORK

1. The Contractor shall implement a white goods recycling program. This program shall include the proper disposal of capacitors removed from the white goods. The Project shall also include an increase in the volume of paper processed as a result of this grant.
2. The contractor shall document the volume of white goods and paper processed during the term of this Contract. Documentation of the volume of capacitors removed from the white goods shall also be kept during the term of the Contract including disposal methods for the capacitors.
3. The Contractor shall investigate the potential markets available for the recyclables and, where potential exists, solicit bids for the purchase of the recyclable materials. Preference for the purchase of the recyclables collected will be given to Iowa companies. Where appropriate, contracts for the sale of recyclables will be obtained. The Contractor will include in the final report an analysis of the available markets and those utilized for the Project.
4. The Contractor shall prepare detailed plans for the recycling center and detailed specifications for the collection program. The Contractor will pursue rental and donation options for all equipment used in the recycling center and for the collection program. The Contractor will submit plans and specifications for the recycling center to Environmental Protection Division of the Department and shall receive approval from the Department before construction of recycling center begins.
5. The Contractor shall purchase any piece of equipment specified in the plans costing over \$10,000 on a competitive basis. The Department shall fund the purchase of equipment and buildings only after the Contractor documents that items 5.2, 5.3, and 5.4, have been addressed and receives approval from the Department. The Contractor would, however, by mutual agreement with the Department and provided the permit requirements are met, be allowed to purchase certain items of equipment useful to the recycling operation before sections 5.2, 5.3, and 5.4, have been addressed.

The purchase of equipment will be cost shared with the Department at a 10% local share of the actual purchase price of the equipment identified in Appendix A, Budget. The title of the property purchased by the Contractor shall remain vested with the owner of the Project. In the event that the Project fails and any equipment is sold for up to five years after the end of the contract, the Department shall be paid a percentage of the sale price equal to the percentage of grant money used to purchase the property.

6. The Contractor shall submit monthly reports on the Project. The reports are due on the 15th of every month. The reports shall discuss the status of the Project.
7. The Contractor shall develop a pictorial history via slides of the

Project complete with data on project development from early initiation through construction, start-up and contract completion necessary for presentation of the project at Waste Management Conferences, trade journals and other sources to disseminate the results of the project. The Contractor shall conduct at least one media-notified open house after the Project is operational and will encourage visits at other times on a scheduled basis.

8. The Contractor shall make any information on the Project resulting from this grant readily available, as this will be considered to be public information.
9. The Contractor shall submit a final report on the Project. The final report will include:
  - 1) Information on the amount of recyclable material collected and processed during the term of this Contract, operation and maintenance costs, waste diverted from the landfill and future expectations in these areas.
  - 2) The environmental impact of the Project.
  - 3) Assessment of the viability of conducting this type of project in other communities, counties and regions within the state of Iowa.
  - 4) Details on all aspects of the Project during the term of the contract.

Budget

ITEM	DNR GRANT	COST SHARE	TOTAL COST
Salaries		\$247,000	\$247,000
Transportation		\$160,000	\$160,000
Baler	\$135,000	\$15,000	\$150,000
Conveyor	\$25,200	\$2,800	\$28,000
Direct Charges		\$165,000	\$165,000
Supplies		\$33,000	\$33,000
TOTALS	\$160,200	\$622,800	\$783,000

(RR-243C.MS)



## City of Council Bluffs

### SCOPE OF WORK

1. The Contractor shall construct a waste separation and recycling facility to serve the Council Bluffs area. As part of this facility, construction of an in-vessel composting unit will be completed and used in the composting of yard waste and other compostable materials from the solid waste stream.
2. The Contractor shall establish a specific education strategy dealing with recycling. The strategy will consist of promotional and educational materials that will be distributed to the public to increase citizen participation in the recycling program.
3. The Contractor shall investigate the potential markets available for the recyclables and, where potential exists, solicit bids for the purchase of the recyclable materials. Preference for the purchase of the recyclables that are collected and processed by the Project shall be given to Iowa companies.

A marketing plan for the composted material shall be completed by the Contractor which will include, but not be limited to, available markets, potential markets, volumes required by the markets and other market specifications. The Contractor shall include in the final report an analysis of the available markets for recyclables and composted material and those utilized for the Project.

4. The Contractor shall prepare detailed plans for the recycling center and detailed specifications for the collection program. The Contractor will pursue rental and donation options for all buildings and equipment used in the recycling center and for the collection program. The Contractor will submit plans and specifications for the recycling center to the Environmental Protection Division of the Department and shall receive approval from the Department before construction of the recycling center begins.
5. The Contractor shall purchase any piece of equipment specified in the plans costing over \$10,000 on a competitive basis. The Department shall fund the purchase of equipment and buildings only after the Contractor documents that items 5.2, 5.3, and 5.4 have been addressed and receives approval from the Department. The Contractor would, however, by mutual agreement with the Department and provided the permit requirements are met, be allowed to purchase certain items of equipment useful to the recycling operation before sections 5.2, 5.3, and 5.4 have been addressed. The purchase of equipment will be cost shared with the Department at 90% of the actual purchase price of the equipment identified in Appendix A, Budget. The title of the property purchased by the Contractor shall remain vested with the owner of the Project. In the event that the Project fails and any equipment is sold for up to five years after the end of the contract, the Department shall be paid a percentage of the sale price

equal to the percentage of grant money used to purchase the property.

6. The Contractor shall submit monthly reports on the Project. The reports are due on the 15th of every month. The reports shall discuss the status of the Project.
7. The Contractor shall make a comparison of windrow composting versus in-vessel composting methods. As part of the comparison, an evaluation of time for composting, marketability of the compost, physical differences, and advantages or disadvantages of the two types of compost shall be made.
8. The Contractor shall develop a pictorial history via slides of the Project complete with data on project development from early initiation through construction, start-up and contract completion necessary for presentation of the project at Waste Management Conferences, trade journals and other sources to disseminate the results of the project. The Contractor shall conduct at least one media-notified open house after the project is operational and will encourage visits at other times on a scheduled basis.
9. The Contractor shall make any information on the Project resulting from this grant readily available, as this will be considered to be public information.
10. The Contractor shall submit a final report on the project. The final report will include:
  - 1) Information on the amount of recyclable material processed during the term of this Contract, operation and maintenance costs, waste diverted from the landfill and future expectations in these areas.
  - 2) The environmental impact of the Project.
  - 3) Assessment of the viability of conducting this type of project in other communities, counties and regions within the state of Iowa.
  - 4) Assessment of markets for compost and comparison of in-vessel composting versus windrow composting.
  - 5) Details on all aspects of the Project during the term of the contract.

Budget

ITEM	DNR GRANT	COST SHARE	TOTAL COST
Composting Vessel	<del>4171,000</del>	\$171,000	\$171,000
Infrastructure		\$49,852	\$49,852
Salaries		\$22,200	\$22,200
Land		\$215,660	\$215,660
Travel/Advertising		\$17,500	\$17,500
Equipment		\$1,629,500	\$1,629,500
Buildings		\$920,000	\$920,000
TOTALS	\$171,000	\$2,854,712	\$3,025,712

(A:RR-243.MS)

## Iowa Plastics, Inc.

### Scope of Work

1. The Contractor shall implement a business that produces plastic products manufactured from post-consumer plastics.
2. The Contractor shall recycle at least 432,000 pounds (216 tons) of post-consumer plastic in the first year of operation of the Project.
3. The Contractor shall investigate the potential markets available for the plastic products and, where potential exists, solicit bids for the purchase of the plastic products. Preference for the purchase of the plastic products that are collected and processed by the Project shall be given to Iowa companies.
4. If a permit is necessary from the Department, the Contractor shall prepare detailed plans for the Project. The Contractor will pursue rental and donation options for all equipment used in the Project. If a permit is necessary, the Contractor will submit plans and specifications for the Project to the Environmental Protection Division of the Department and shall receive approval from the Department before operation of the Project begins.
5. The Contractor shall purchase any piece of equipment specified in the plans costing over \$10,000 on a competitive basis. The Department shall fund the purchase of equipment and buildings only after the Contractor documents that items 5.2, and 5.3 have been addressed and receives approval from the Department. The Contractor would, however, by mutual agreement with the Department and provided the permit requirements are met, be allowed to purchase certain items of equipment useful to the recycling operation before sections 5.2, and 5.3 have been addressed.

The purchase of equipment will be cost shared with the Department at a 10% local share of the actual purchase price of the equipment identified in Appendix A, Budget. The title of the property purchased by the Contractor shall remain vested with the owner of the Project. In the event that the Project fails and any equipment is sold for up to five years after the end of the contract, the Department shall be paid a percentage of the sale price equal to the percentage of grant money used to purchase the property.

6. The Contractor shall submit monthly reports on the Project. The reports are due on the 15th of every month. The reports shall discuss the status of the Project.
7. The Contractor shall develop a pictorial history via slides of the Project complete with data on project development from early initiation through construction, start-up and contract completion necessary for presentation of the project at Waste Management Conferences, trade journals and other sources to disseminate the results of the project. The Contractor shall conduct at least one media-notified open house after the Project is operational and will encourage visits at other times on a scheduled basis.

8. The Contractor shall make any information on the Project resulting from this grant readily available, as this will be considered to be public information.
9. The Contractor shall submit a final report on the Project. The final report will include:
  - 1) Information on the amount of post-consumer material processed during the term of this Contract, operation and maintenance costs.
  - 2) Markets used and value of the plastic products manufactured in the Project.
  - 3) The environmental impact of the Project.
  - 4) Assessment of the viability of conducting this type of Project in other communities, counties and regions within the State of Iowa.
  - 5) Assessment of markets for the plastic material manufactured by the Project.

Budget

ITEM	DNR GRANT	COST SHARE	TOTAL COST
Plastic Press/Oven	\$47,250	\$5,250	\$52,500
Plastic Dryer	\$13,050	\$1,450	\$14,500
Plastic Granulator	\$9,450	\$1,050	\$10,500
4'X 8' Dies (10)	\$11,250	\$1,250	\$12,500
Storage Bins (3)	\$3,000	\$500	\$3,500
Skid Loader	\$10,300	\$1,200	\$11,500
Other Equipment		\$36,575	\$36,575
Marketing/Promotion		\$12,250	\$12,250
Training		\$6,500	\$6,500
Engineering		\$6,600	\$6,600
Testing		\$7,200	\$7,200
Building		\$35,000	\$35,000
TOTALS	\$94,300	\$114,825	\$209,125

(A:243A.MS)

## City of Ottumwa

### Scope of Work

1. The Contractor shall implement a curbside collection program and recycling facility to service Wapello and Davis Counties. The program shall include methods to collect, process and market recyclable materials.
2. The Contractor shall establish a specific education strategy dealing with recycling. The strategy will consist of promotional and educational materials that will be distributed to the public to increase citizen participation in the recycling program.
3. The Contractor shall investigate the potential markets available for the recyclables and, where potential exists, solicit bids for the purchase of the recyclable materials. Preference for the purchase of the recyclables that are collected and processed by the Project shall be given to Iowa companies. Where appropriate, contracts for the sale of recyclables will be obtained. The Contractor will include in the final report an analysis of the available markets and those utilized for the Project.
4. The Contractor shall prepare detailed plans for the recycling center and detailed specifications for the collection program. The Contractor will pursue rental and donation options for all buildings and equipment used in the recycling center and for the collection program. The contractor will submit plans and specifications for the recycling center to the Environmental Protection Division of the Department and shall receive approval from the Department before construction of the recycling center begins.
5. The Contractor shall purchase any piece of equipment specified in the plans costing over \$10,000 on a competitive basis. The Department shall fund the purchase of equipment only after the Contractor documents that items 5.2, 5.3, and 5.4 have been addressed and receives approval from the Department. The Contractor would, however, by mutual agreement with the Department and provided the permit requirements are met, be allowed to purchase certain items of equipment useful to the recycling operation before sections 5.2, 5.3, and 5.4 have been addressed.

The purchase of equipment will be cost shared with the Department at a 10% local share of the actual purchase price of the equipment identified in Appendix A, Budget. The title of the property purchased by the Contractor shall remain vested with the owner of the Project. In the event that the Project fails and any equipment is sold for up to five years after the end of the contract, the Department shall be paid a percentage of the sale price equal to the percentage of grant money used to purchase the property.

6. The Contractor shall submit monthly reports on the Project. The reports are due on the 15th of every month. The reports shall discuss the status of the Project.

7. The Contractor shall monitor the collection routes during the term of the contract. The Contractor shall determine the number of stops, and the quantity of recyclable materials collected from collection routes and citizen drop-off. This information shall be included in the monthly report.
8. The Contractor shall develop a pictorial history via slides of the project complete with data on project development from early initiation through construction, start-up and contract completion necessary for presentation of the project at Waste Management Conferences, trade journals and other sources to disseminate the results of the project. The Contractor shall conduct at least one media-notified open house after the Project is operational and will encourage visits at other times on a scheduled basis.
9. The Contractor shall make any information on the Project resulting from this grant readily available, as this will be considered to be public information.
10. The Contractor shall submit a final report on the Project. The final report will include:
  - 1) Information on the amount of recyclable material collected during the term of this Contract, citizen participation rates, operation and maintenance costs, waste diverted from the landfill and future expectations in these areas.
  - 2) The environmental impact of the Project.
  - 3) Assessment of the viability of conducting this type of project in other communities, counties and regions within the state of Iowa.
  - 4) The effectiveness of the volume based collection fees used to increase participation in the recycling program.
  - 5) Details on all aspects of the Project during the term of the contract.

Budget

ITEM	DNR GRANT	COST SHARE	TOTAL COST
Conveyor System	\$13,500	\$1,500	\$15,000
Collection Bins (30)	\$8,100	\$900	\$9,000
Storage Bins (10)	\$8,100	\$900	\$9,000
Glass Crusher	\$3,420	\$380	\$3,800
Horizontal Baler	\$25,200	\$2,800	\$28,000
Vertical Baler	\$18,000	\$2,000	\$20,000
Magnetic Sep. System	\$2,610	\$290	\$2,900
Front End Loader	\$45,000	\$5,000	\$50,000
Fork Lift	\$22,500	\$2,500	\$25,000
Solvent Recycler	\$3,645	\$405	\$4,050
Anti Freeze Recycler	\$4,495	\$499	\$4,995
Shredder	\$44,100	\$4,900	\$49,000
Scales	\$31,500	\$3,500	\$35,000
Installation/Freight	\$27,000	\$3,000	\$30,000
Waste Oil Burners (2)	\$10,854	\$1,206	\$12,060
Oil Collection Tank	\$4,950	\$550	\$5,500
Salaries		\$252,120	\$252,120
Travel		\$3,000	\$3,000
Office/Shop Supplies		\$20,850	\$20,850
Contractual Services		\$257,770	\$257,770
Other Direct/Indirect Costs		\$119,350	\$119,350
TOTALS	\$272,974	\$683,420	\$956,395

(A:RR-243B.MS)



Ms. Hay gave an explanation of each grant contract.

Rozanne King asked about the difference in the Totals columns on the Council Bluffs grant budget.

Ms. Hay noted that the grant amount shown in the agenda brief for Council Bluffs should be \$171,000 rather than \$170,000. The \$171,000 should also be shown in the Scope of Work, page 3, as the cost of the Composting Vessel and should be listed under the DNR Grant column.

*Motion was made by Mike Earley to approve the Landfill Alternatives Grant Contracts for Skyline Center, Spectrum Industries, Siouxland Recovery, City of Council Bluffs, Iowa Plastics, Inc., and the City of Ottumwa as presented. Seconded by Rozanne King. Motion carried unanimously.*

AGREEMENT WITH UNIVERSITY HYGIENIC LABORATORY FOR AIR QUALITY AND WATER QUALITY MONITORING AND REPORTING

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

The Commission is requested to approve the FFY 1991 Agreement with the University Hygienic Laboratory. The agreement covers air quality monitoring and reporting, water quality monitoring - both ambient and compliance, analyses and reporting for the drinking water program and provision for analyses for the underground storage tank and uncontrolled sites programs.

Director Wilson asked that this item be tabled until the October meeting as UHL would like to fine tune the contract before Commission approval is given.

*Motion was made by Richard Hartsuck to table Item #6 until the October meeting. Seconded by William Ehm. Motion carried unanimously.*

SIOUXLAND INTERSTATE METROPOLITAN PLANNING COUNCIL MONITORING CONTRACT

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

The Commission is requested to approve a contract with the Siouxland Interstate Metropolitan Planning Council (SIMPCO) to conduct a monitoring study on bioconcentration of heavy metals in the Missouri River. The study will involve monitoring of a

September 1990

Environmental Protection Commission Minutes

segment of the river near Sioux City, Iowa to determine the bioconcentration of heavy metal pollutants within the aquatic food chain and the impact of heavy metal concentrations in river water and sediment on the resident biota.

The contract amount will be \$23,060.

This project will be supported with U. S. EPA Section 604(b) funds and is being done to comply with EPA requirements that states convey a portion of their Section 604(b) allocation to regional planning agencies for water quality planning.

(Contract is shown on the following 10 pages)

IOWA DEPARTMENT OF NATURAL RESOURCES  
AGREEMENT NUMBER 91-7138-01

with

SIouxLAND INTERSTATE METROPOLITAN PLANNING COUNCIL (SIMPCO)

Agreement Title: Bioconcentration of Heavy Metals in the Missouri River

Agreement Amount: \$23,060

Time of Performance: Sept. 1, 1990 -  
Nov. 30, 1991.

Siouxland Interstate Metropolitan  
Planning Council  
Project Officer: Donald M. Meisner

Department of Natural Resources  
Project Officer: Lavoy Haage

Submit Original Invoice and two copies to:

Mark Slatterly  
Department of Natural Resources  
Henry A. Wallace Building  
Des Moines, IA 50319-0034  
ATTN: Budget and Grants Bureau

Issue Payment to:

Siouxland Interstate Metropolitan Planning Council  
Box 447  
400 Orpheum Electric Bldg.  
Sioux City, IA 51102  
ATTN: Donald M. Meisner

Federal Employer ID # \_\_\_\_\_

The Siouxland Interstate Metropolitan Planning Council agrees to deliver all supplies and perform all services set forth in the attached Special Conditions for the consideration stated herein. The rights and obligations of the parties to this agreement shall be subject to and governed by the Special Conditions and General Conditions. To the extent of any inconsistency between the Special Conditions or the General Conditions and any specifications or other contents which are made a part of this agreement, by reference or otherwise, the Special Conditions and the General Conditions shall control. To the extent of any inconsistency between the Special Conditions and the General Conditions, the Special Conditions shall control. This agreement contains 9 articles.

Draft - 7/31/90

IN WITNESS THEREOF, the parties hereto have executed this agreement on the day and year last specified below.

SIouxLAND INTERSTATE METROPOLITAN  
PLANNING COUNCIL

DEPARTMENT OF NATURAL RESOURCES

By: \_\_\_\_\_  
Donald M. Meisner, Executive  
Director

By: \_\_\_\_\_  
Larry J. Wilson, Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_

This agreement was approved, as required by Subsection 455B.105(7) of the Code of Iowa, by the Environmental Protection Commission on \_\_\_\_\_.

#### SPECIAL CONDITIONS

#### ARTICLE I - IDENTIFICATION OF PARTIES

This agreement is entered into by and between the Iowa Department of Natural Resources (hereinafter referred to as Department or DNR) and the Siouxland Interstate Metropolitan Planning Council (hereinafter referred to as Contractor or SIMPCO)

#### ARTICLE II - STATEMENT OF PURPOSE

This agreement is entered into with the intent of aiding the Director of the Iowa Department of Natural Resources to evaluate the impact of heavy metal concentrations in Missouri River water and sediment on the resident biota and to document and evaluate bioconcentration of these pollutants within the food chain.

#### ARTICLE III - STATEMENT OF WORK

3.1 The Contactor will conduct sampling at 3 sites on the Missouri River to be located as follows:

Site 1) at a point downstream of the confluence of the Missouri River and the Big Sioux River, but upstream from confluence with the Floyd River and from any significant urban stormwater discharges originating from the Sioux City area.

Site 2) downstream of Sioux City, Iowa at R.M. 723.

Site 3) near Whiting, Iowa at R.M. 690.

3.2 By September 30, 1990, SIMPCO will develop and submit to EPA for approval, an EPA-approvable Quality Assurance Work Plan containing a tentative schedule identifying and describing the work activities planned for each sampling site for each quarter of the contract period. SIMPCO will submit the finalized EPA-approved Quality Assurance Work Plan to DNR by November 30, 1990.

- 3.3 The Contractor will collect and analyze or otherwise appropriately evaluate 29 samples per site for three sites for each of three sampling dates. The three sampling dates will occur at 45 to 60 day intervals within the period May 1 to August 31, 1991. The types and numbers of samples will be:

<u>Sample Type</u>	<u>Number of Samples</u>
water*	2
sediment	3
periphyton	3
zooplankton	3
invertebrates	3
fish	15 [5 each of Smallmouth Buffalo ( <u>Ictiobus bubalus</u> ), Carp, and Flathead Catfish.]

29 samples x 3 dates x 3 sites =  
261 total samples

\* additional water samples will be collected for each site on each sampling date and will be analyzed for hardness, alkalinity, and pH.

- 3.4 For each of the three Missouri River sampling sites and three sampling dates, the Contractor will:

- measure the concentrations of chromium, copper, lead, mercury, nickel and zinc in the water, sediment and biota;
- document bioconcentration of these heavy metals within the aquatic food chain (zooplankton, periphyton, invertebrates and fish);
- identify statistically significant differences (associated with site) in the metals content of water, sediment and biota;
- compare periphyton productivity and sediment composition between sites for differences which could be related to metals concentrations; and
- relate sediment organic content and metal oxide concentrations to metals accumulation in the sediment.

- 3.5 The Contractor will conduct sampler installations, and sample collections, preparations, and analyses as specified in the EPA-approved Quality Assurance Work Plan to be developed by SIMPCO.

- 3.6 By October 15, 1991, the Contractor will complete and submit to DNR a draft project report to include an introduction with historical background studies cited and present-study justification, data summaries, interpretation of results with water quality implications addressed, a summary of the main findings, and identification of further research needs. Following DNR review of the draft report, the contractor will submit a final project report, modified to reflect DNR comments, by November 30, 1991.

### 3.7 SCHEDULE OF ACTIVITIES

- a. By September 30, 1990, develop and submit to EPA for approval, an EPA-approvable Quality Assurance Work Plan including a schedule identifying the work activities planned for each sampling site for each quarter of the contract period.
- b. By November 30, 1990, submit to DNR an EPA-approved Quality Assurance Work Plan.
- c. Within 15 days of the end of each quarterly period (January-March, April-June, July-September, October-December), submit to DNR a report summarizing the work activities conducted during the quarter.
- d. By March 31, 1991, select students to participate in project research.
- e. May-June 1991 - conduct field installation of samplers.
- f. May-August 1991 - carry out sample collection and preparation.
- g. May-September 1991 - perform sample and data analyses.
- h. By October 15, 1991, complete and submit to DNR a draft project report. Following DNR review of the draft report, submit a final project report, modified to reflect DNR comments, by November 30, 1991.

### ARTICLE IV - REPORTS & PRODUCTS

The Contractor shall submit to the DNR project officer the following reports and products:

- |   |   |
|---|---|
| 4.1 EPA-approved Quality Assurance Work Plan with work activity schedule      | November 30, 1990   |
| 4.2 Quarterly progress reports  | October 15, 1990<br>January 15, 1991<br>April 15, 1991<br>July 15, 1991<br>October 15, 1991 |
| 4.3 Draft project report  | October 15, 1991  |
| 4.4 Final report, to reflect DNR review of and comments on draft final report | November 30, 1991   |

ARTICLE V - DESIGNATION OF OFFICIALS

- 5.1 Department - The Director of the Department is the official authorized to execute any changes in terms, conditions, or amounts specified in this agreement. Lavoy Haage is designated to negotiate, on behalf of the Department, and subject to the approval of the Director, any changes to this agreement.
- 5.2 SIMPCO - Donald M. Meisner, Director of SIMPCO is the Contractor official authorized to execute any changes in the terms, conditions, or amounts specified in this agreement on behalf of the Contractor.

ARTICLE VI - TIME OF PERFORMANCE

The performance of the Contractor is to commence September 1, 1990. The performance required herein shall be completed by November 30, 1991.

ARTICLE VII - ADDITIONAL SPECIAL CONDITIONS

- 7.1 Contractor or the Department shall place the following statement as on the cover page of all nonfinancial reports prepared under this agreement.
- "The publication of this document has been funded in part by the Iowa Department of Natural Resources through a grant from the U.S. Environmental Protection Agency."
- 7.2 Contractor shall submit to the Department an original unbound copy of all nonfinancial documents or reports prepared under this agreement.
- 7.3 The Department shall provide public records for examination and technical staff for personal interview by Contractor or Contractor's agent at the Department's main office (900 E. Grand, Des Moines, Iowa). Contractor shall hold all information provided by the Department as confidential and no such information shall be used for purposes other than those specified in this agreement.
- 7.4 All information generated by the terms and conditions of this agreement shall become the property of the State of Iowa.
- 7.5 The Department shall review and comment on all products and subsequent revisions of these products submitted by Contractor within fifteen (15) working days of the date of their receipt. Failure to comply within the allotted time constitutes approval by the Department.

ARTICLE VIII - CONDITIONS OF PAYMENT

- 8.1 This agreement is entered into on a fixed price basis. Contractor shall be reimbursed on a product - production basis for authorized costs incurred up to the total contract amount stated in Article IX.

- 8.2 For each payment due under this contract, Contractor shall submit an original and two (2) copies of Contractor's invoice. No claim shall be allowed by the State Comptroller's Office when such claim is presented after the lapse of three months from its accrual (Section 8.13, Code of Iowa, 1989, special provisions of law excepting).
- 8.3 The Department shall not process payment for items of work or service which, in the determination of the Department, do not meet the specification of Article III of the Special Conditions. If the item of work or service is resubmitted by a date agreed to by the Department and Contractor through an amendment to this agreement and is determined by the Director to be satisfactorily completed according to the specifications of Article III (Special Conditions), payment shall be processed.
- 8.4 If any item of work or service specified in Article III of the Special Conditions is received more than three (3) working days after the due date specified in Article III, a late penalty shall be assessed. The penalty shall be five percent (5%) of the quarterly payment (specified in Article IX of the Special Conditions) for each working day that the product is overdue. The penalty shall begin to accrue the first working day after the due date. The Department shall have the option of terminating this agreement for cause within the meaning of Section 6.1 of the General Conditions if the Contractor submits any items of work or service more than ten (10) working days after the due date.
- 8.5 The Director may waive the application of Article VIII (8.4) of the Special Conditions for any or all items of work or service specified in Article III of the Special Conditions.

ARTICLE IX - CONTRACT PAYMENT SCHEDULE

<u>DATE</u>	<u>PAYMENT AMOUNT</u>
October 15, 1990	\$3,500
January 15, 1991	\$3,500
April 15, 1991	\$3,500
July 15, 1991	\$3,500
October 15, 1991	\$3,500
Upon completion of final work products	\$5,560
<b>TOTAL CONTRACT AMOUNT</b>	<b>\$23,060</b>



## GENERAL CONDITIONS

### Section 1.0 Entire Agreement

This agreement constitutes the entire agreement between the Department and the Contractor with respect to the subject matter hereof, and the Contractor acknowledges that it is entering into the contract solely on the basis of the terms and conditions herein contained and not in reliance on any representation, statement, inducement of promise, whether oral or written, not contained herein.

### Section 2.0 Amendment

In order to be valid, any amendment of this contract, or change in the conditions or terms of this contract, must be in writing and signed by the officials designated in Article V of this contract.

### Section 3.0 Availability of Funds

If funds anticipated for the continued fulfillment of this contract are at any time not forthcoming or insufficient, either through the failure of the Federal Government or of the State of Iowa to appropriate funds, or discontinuance or material alteration of the program under which funds were provided, then the Department shall have the right to terminate this contract without penalty in accordance with Section 6.1 of the General Conditions by giving not less than thirty (30) days written notice documenting the lack of funding.

### Section 4.0 Records and Audit

- 4.1. The Contractor agrees to maintain books, documents and other records pertaining to all costs and expenses incurred and revenues acquired during this contract in accordance with generally accepted accounting principles and practices consistently applied.
- 4.2. The Contractor shall also maintain the financial information and data used in the preparation or support of the cost submission for this contract.
- 4.3. The Director of the Department or any duly authorized audit representative thereof shall have access for the purpose of audit and examination of any books, documents, papers and records of the Contractor which are pertinent at all reasonable times during the period of retention provided for in paragraphs 4.4, 4.5, and 4.6 below and shall have the right to make copies or to excerpt or make other transcriptions thereof. Access to records is not limited to the required retention periods. The Department or its representatives shall have access to records at any reasonable time for as long as the records are maintained.
- 4.4. All records in the possession of the Contractor pertaining to this contract shall be retained by the Contractor for a period of three (3) years beginning with the date upon which the final payment under this contract

is issued. Records for non-expendable property acquired under this contract shall be retained for a three year period after the final disposition of the property.

- 4.5. Records relating to any litigation or claim arising out of the performance of this contract, or costs or expenses of this contract to which exception has been taken as a result of inspection or audit shall be retained by the Contractor until such litigation, claim, or exception has been finally settled or until the three-year period has expired, whichever occurs later.
- 4.6. The Contractor, in maintaining project expenditure accounts, records and reports, shall make any necessary adjustments resulting from any administrative reviews and audits by the United States or by the State of Iowa or by the Contractor.
- 4.7. The Contractor shall insure that an independent audit is conducted on this contract. The audit shall be in accordance with generally accepted standards and with established procedures and guidelines of the Auditor of the State of Iowa.
- 4.8. The Contractor will provide a copy of the audit performed under Article 4.7 to the Department within one year of project completion.

#### Section 5.0 Allowable Costs

Allowable costs are specified under the approved budget presented in the Special Conditions of this contract. Allowable costs in contracts with public or non-public agencies are subject to the cost principles defined in Office of Management and Budget Circular A-87 as amended.

#### Section 6.0 Termination of Contract

- 6.1. Termination for cause. The Department may terminate this contract in whole or in part, at any time before the date of completion, whenever it is determined that the Contractor has failed to comply with the condition of the contract or if funds totaling the amount specified in Article IX of the Special Conditions are not available to the Department. Before any termination, the Director shall provide the Contractor an opportunity for consultation. The Department shall notify the Contractor in writing of any termination. The notice shall state the reasons for the termination. The Contractor must stop work immediately upon notification of termination. The Department will not provide any reimbursement for new commitments after the notice of termination. Payments made to Contractor or recoveries by the Department under contracts terminated for cause shall be in accordance with the legal rights and liabilities of the parties.
- 6.2. Termination for convenience. The Department or the Contractor may terminate the contract in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the future expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date, and, in the case of partial obligations, for the terminated portion after the

effective date, and shall cancel as many outstanding obligations as possible. The Department shall allow full credit to the Contractor for the Department's share of the noncancellable obligations, properly incurred by the Contractor prior to termination. The termination agreement must be in writing and signed by the officials designated in Article V of the Special Conditions.

- 6.3. Rights in incompletd products. In the event the contract is terminated, all finished or unfinished documents, data, reports or other materials prepared by the Contractor under this contract shall, at the option of the Department, become the Department's property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

#### Section 7.0 Equal Employment Opportunity

- 7.1. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, religion, sex, national origin, age, or mental or physical disability. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, religion, sex, national origin, age or mental or physical disability except where mental or physical disability relates to a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor's business. Such action shall include but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other form of compensation and selection for training; including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth provisions of the nondiscrimination clause.
- 7.2. The Contractor will in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, sex, national origin, age, or mental or physical disability except where mental or physical ability is a bona fide occupation qualification reasonably necessary to the normal operation of the Contractor's business.
- 7.3. The Contractor will comply with all relevant provisions of the Iowa Civil Rights Act of 1965 as amended, Iowa Executive Order 15 of 1973, Chapter 19B, Code of Iowa, Federal Executive Order 11246 of 1965 as amended by Federal Executive Order 11376 of 1967 and Title VI of the Civil Rights Act of 1964 as amended. The Contractor will furnish all information and reports requested by the state of Iowa or required by, or pursuant to, the rules and regulations thereof and will permit access to payroll and employment records by the state of Iowa for purposes of investigation to ascertain compliance with such rules, regulations or requests, or with this nondiscrimination clause.
- 7.4. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the aforesaid rules, regulations or requests, this contract may be cancelled, terminated or suspended in

whole or in part. In addition, the state of Iowa may take such further action, and such other sanctions may be imposed and remedies invoked, as provided by the Iowa Civil Rights Act of 1965 as amended, Chapter 601A, Code of Iowa, or as otherwise provided by law.

- 7.5. The Contractor will include the provisions of paragraphs 7.1. through 7.4. hereof in every subcontract, unless specifically exempted by approval of the state of Iowa, so that such provisions will be binding on each subcontract. The Contractor will take such action with respect to any subcontract as the state of Iowa may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the state of Iowa, the Contractor may request the State of Iowa to enter into such litigation to protect the interests of the State of Iowa.

#### Section 8.0 Indemnification

The Contractor shall be responsible and agrees to pay for any and all claims for wrongful death, personal injury, or property damage incurred by reason of the negligence of the Contractor or its employees arising from activities under this agreement to the full extent permitted by Chapter 25A, Code of Iowa, which is the exclusive remedy for processing of tort claims against the State of Iowa.

#### Section 9.0 Compliance with Laws

The Contractor agrees that over the duration of and as a condition of the Contractor's duty to perform under the terms of this contract, that it will be in compliance with all applicable laws and regulations of the state and Federal government, including, but not limited to Equal Employment Opportunity provisions, Occupational Health and Safety Act, records retention, audit requirements, allowable costs, and 40 CFR.

The Contractor certifies that it is not on EPA's List of Violating Facilities as listed in 40 CFR Part 15 and that it has not been debarred, suspended, or otherwise excluded from receiving federal funds by any agency of the U.S. government.

Mr. Kuhn distributed background information along with copies of the draft contract. He noted that staff received four proposals from three agencies, two proposals from SIMPCO, one from Northwest Iowa Planning Council, and one from Upper Explorerland. Two proposals were accepted; one is the SIMPCO contract and the other will be presented at a later meeting. Mr. Kuhn explained the SIMPCO contract and asked the Commission's approval for same.

*Motion was made by William Ehm to approve, as presented, a contract with Siouxland Interstate Metropolitan Planning Council (SIMPCO) to conduct a monitoring study on bioconcentration of heavy metals in the Missouri River. Seconded by Mike Earley. Motion carried unanimously.*

#### BUDGET REQUEST--FY92-93 UPDATE

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

Several significant items have been added to the FY92 and FY93 request since the budget was last considered by the NRC.

Last month's item included a special request for \$400,000 to expand toxic waste cleanup days. An additional \$500,000 has been added to aid in the establishment of five regional toxic waste pickup sites.

There is a concern that the funds available through the Groundwater program are not sufficient to meet the demand in the grant program to counties for plugging abandoned rural wells. A supplement request for \$500,000 per year has been added to the budget for this purpose.

Within the Clean Bill last session, a legislative mandate was included to promote Waste Reduction and Recycling. As a result, \$2,000,000 per year has been added to the budget request to provide technical and financial assistance, and \$4,000,000 has been added to provide direct aid to cities and counties on a population basis for this program.

These items are all separate, special requests that are apart from the DNR's General Fund request for operations. Thus, they are not ranked in a Department Priority listing.

There may be additional budget information that will be shared with the EPC at the meeting, depending on how work progresses. At this point, final budget request documents and related financial schedules will probably not be available until the middle of September.

Mr. Kuhn explained that the final budget packet for review is not yet completed. He related that because of the spending plan reduction by the Department of Management recalculations of the base and decision packages will need to be completed. Mr. Kuhn stated that the final budget package, as it will look in the presentation to the Governor, will be sent to the Commission in the next week. There has not been any significant changes since the last presentation to the Commission.

This was an informational item; no action was required.

#### FINANCIAL STATUS REPORT AND LAST FISCAL YEAR REPORT

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

The monthly review will involve two items. The first item is the report for the end of August for Fiscal Year 1991, covering year-to-date (YTD) from July through August. The second item is the final expenditure report for Fiscal Year 1990 covering the complete, previous fiscal year.

The YTD budget for FY91 is simply 2/12ths of the annual budget as compared to actual staff estimates used in the previous fiscal year. This approach will be used until staff estimates, by month, for FY91 have been completed.

This is the first time the final expenditure versus budget report has been presented for review at a regular commission meeting. Comments and questions from commissioners are welcome.

Due to an equipment malfunctions, these reports were not ready at the time the agenda briefs were prepared for the Commissions. We expect them to be ready in several days and they will be mailed under separate cover at that time.

A copy of the last Fiscal Year Report is on file in the department's Records Center.

(Monthly Financial Status Report is shown on the following 3 pages)

## Environmental Protection Commission Minutes

September 1990

J080C103

IOWA DEPARTMENT OF NATURAL RESOURCES  
SUMMARY OF EXPENDITURES VS. YEAR-TO-DATE PLAN  
AS OF 08/31/90

PAGE 1

	TOTAL EXPENDITURES 08/01/90 - 08/31/90	TOTAL EXPENDITURES FY-TO-DATE	YEAR-TO-DATE PLAN	OVER/UNDER YEAR-TO-DATE PLAN	CURRENT ANNUAL BUDGET
1000 DIRECTOR'S OFFICE					
101 PERSONAL SERVICES	17,150.02	33,903.14	44,895.00	10,991.86-	269,374.00
202 PERSONAL TRAVEL	2,066.04	2,828.41	6,666.00	3,837.59-	40,000.00
301 OFFICE SUPPLIES	91.00	91.00	333.00	242.00-	2,000.00
309 PRINTING & BINDING	1,228.85	1,228.85	2,333.00	1,104.15-	14,000.00
DIVISION TOTAL	20,535.91	38,051.40	54,227.00	16,175.60-	325,374.00

J080C103

IOWA DEPARTMENT OF NATURAL RESOURCES  
SUMMARY OF EXPENDITURES VS. YEAR-TO-DATE PLAN  
AS OF 08/31/90

PAGE 2

	TOTAL EXPENDITURES 08/01/90 - 08/31/90	TOTAL EXPENDITURES FY-TO-DATE	YEAR-TO-DATE PLAN	OVER/UNDER YEAR-TO-DATE PLAN	CURRENT ANNUAL BUDGET
2000 COORDINATION AND INFORMATION					
101 PERSONAL SERVICES	120,478.57	240,214.98	260,611.00	20,396.02-	1,563,693.00
202 PERSONAL TRAVEL	512.90	512.90	5,499.00	4,986.10-	33,000.00
203 STATE VEHICLE OPERATION	485.80	485.80	1,882.00	1,396.20-	11,306.00
204 STATE VEHICLE DEPRECIATIO	1,245.00	1,245.00	2,866.00	1,621.00-	17,200.00
301 OFFICE SUPPLIES	977.40	1,222.40	12,915.00	11,692.60-	77,500.00
302 FACILITY MAINTENANCE SUPP	4,652.39	4,685.27	3,999.00	686.27	24,000.00
303 EQUIPMENT MAINTENANCE SUP	1,228.74	1,228.74	2,000.00	771.26-	12,000.00
307 AG., CONSERVATION & HORT S	295.52	295.52	83.00	212.52	500.00
308 OTHER SUPPLIES	3,906.69	4,206.56	6,149.00	1,942.44-	36,900.00
309 PRINTING & BINDING	50,247.23	50,247.23	56,333.00	6,085.77-	338,000.00
401 COMMUNICATIONS	811.15	1,381.21	2,000.00	618.79-	12,000.00
402 RENTALS	337.34	337.34	141.00	196.34	850.00
403 UTILITIES	3,259.90	3,259.90	4,958.00	1,698.10-	29,750.00
405 PROF & SCIENTIFIC SERVICE	10,037.96	10,037.96	14,800.00	4,762.04-	88,800.00
406 OUTSIDE SERVICES	2,027.01	4,229.92	13,874.00	9,644.08-	83,250.00
501 EQUIPMENT	2,350.58	2,350.58	6,058.00	3,707.42-	36,350.00
DIVISION TOTAL	202,854.18	325,941.31	394,168.00	68,226.69-	2,365,099.00

J080C103

IOWA DEPARTMENT OF NATURAL RESOURCES  
SUMMARY OF EXPENDITURES VS. YEAR-TO-DATE PLAN  
AS OF 08/31/90

PAGE 3

	TOTAL EXPENDITURES 08/01/90 - 08/31/90	TOTAL EXPENDITURES FY-TO-DATE	YEAR-TO-DATE PLAN	OVER/UNDER YEAR-TO-DATE PLAN	CURRENT ANNUAL BUDGET
3000 ADMINISTRATIVE SERVICES DIV.					
101 PERSONAL SERVICES	316,777.79	628,565.35	682,310.00	53,744.65-	4,093,887.00
202 PERSONAL TRAVEL	3,253.63	3,385.03	8,932.00	5,546.97-	53,600.00
203 STATE VEHICLE OPERATION	4,944.66	4,944.66	10,082.00	5,137.34-	60,500.00
204 STATE VEHICLE DEPRECIATIO	5,495.00	5,495.00	12,083.00	6,588.00-	72,500.00
301 OFFICE SUPPLIES	17,756.48	19,026.70	57,697.00	38,670.30-	346,200.00
302 FACILITY MAINTENANCE SUPP	38.15	38.15	83.00	44.85-	500.00
303 EQUIPMENT MAINTENANCE SUP	3,160.04	4,124.04	8,332.00	4,207.96-	50,000.00
308 OTHER SUPPLIES	462.89	494.39	1,497.00	1,002.61-	8,990.00
309 PRINTING & BINDING	1,725.25	1,725.25	5,727.00	4,001.75-	34,375.00
312 UNIFORMS & RELATED ITEMS	25.83	25.83	500.00	474.17-	3,000.00
401 COMMUNICATIONS	16,286.67	16,305.73	39,049.00	22,743.27-	234,300.00
406 OUTSIDE SERVICES	6,680.78	6,692.28	7,831.00	1,138.72-	47,000.00
410 DATA PROCESSING	27,249.65	27,249.65	10,666.00	16,583.65	64,000.00
501 EQUIPMENT	1,785.93	3,571.86	11,832.00	8,260.14-	71,000.00
DIVISION TOTAL	405,642.75	721,643.92	856,621.00	134,977.08-	5,139,852.00

IOWA DEPARTMENT OF NATURAL RESOURCES  
SUMMARY OF EXPENDITURES VS. YEAR-TO-DATE PLAN  
AS OF 08/31/90

PAGE 4

	TOTAL EXPENDITURES 08/01/90 - 08/31/90	TOTAL EXPENDITURES FY-TO-DATE	YEAR-TO-DATE PLAN	OVER/UNDER YEAR-TO-DATE PLAN	CURRENT ANNUAL BUDGET
4000 PARKS, PRES. & RECREATION DIV.					5,491,289.00
101 PERSONAL SERVICES	570,769.99	1,141,271.30	915,211.00	226,060.30	67,522.00
202 PERSONAL TRAVEL	3,996.63	3,996.63	11,252.00	7,255.37-	180,906.00
203 STATE VEHICLE OPERATION	16,391.70	16,455.14	30,148.00	13,692.86-	287,369.00
204 STATE VEHICLE DEPRECIATIO	18,385.00	18,385.00	47,892.00	29,507.00-	43,575.00
301 OFFICE SUPPLIES	2,061.99	2,411.99	7,260.00	4,848.01-	556,782.00
302 FACILITY MAINTENANCE SUPP	47,207.90	51,472.97	92,794.00	41,321.03-	285,100.00
303 EQUIPMENT MAINTENANCE SUP	40,196.42	40,196.42	47,514.00	7,317.58-	18,000.00
307 AG., CONSERVATION & HORT S	1,168.13	1,168.13	3,000.00	1,831.87-	26,094.00
308 OTHER SUPPLIES	3,888.26	4,149.20	4,348.00	198.80-	71,139.00
309 PRINTING & BINDING	37.35	37.35	11,856.00	11,818.65-	34,882.00
312 UNIFORMS & RELATED ITEMS	219.78	219.78	5,813.00	5,593.22-	66,592.00
401 COMMUNICATIONS	8,923.09	8,923.09	11,098.00	2,174.91-	20,490.00
402 RENTALS	2,786.00	2,796.00	3,414.00	618.00-	341,451.00
403 UTILITIES	26,668.08	26,668.08	56,907.00	30,238.92-	164,832.00
406 OUTSIDE SERVICES	17,478.76	19,523.91	27,469.00	7,945.09-	145,000.00
501 EQUIPMENT	9,969.15	16,103.10	24,164.00	8,060.90-	2,700.00
602 OTHER EXPENSES & OBLIGATI	1,067.00	1,067.00	449.00	618.00	
DIVISION TOTAL	771,215.23	1,354,845.09	1,300,589.00	54,256.09	7,803,723.00

IOWA DEPARTMENT OF NATURAL RESOURCES  
SUMMARY OF EXPENDITURES VS. YEAR-TO-DATE PLAN  
AS OF 08/31/90

PAGE 5

	TOTAL EXPENDITURES 08/01/90 - 08/31/90	TOTAL EXPENDITURES FY-TO-DATE	YEAR-TO-DATE PLAN	OVER/UNDER YEAR-TO-DATE PLAN	CURRENT ANNUAL BUDGET
5000 FORESTRY DIVISION					1,856,348.00
101 PERSONAL SERVICES	136,179.34	269,558.44	309,385.00	39,826.56-	44,795.00
202 PERSONAL TRAVEL	2,067.08	2,067.08	7,462.00	5,394.92-	74,000.00
203 STATE VEHICLE OPERATION	7,516.65	7,516.65	12,331.00	4,814.35-	124,781.00
204 STATE VEHICLE DEPRECIATIO	9,880.00	9,880.00	20,795.00	10,915.00-	46,060.00
301 OFFICE SUPPLIES	1,425.68	1,782.95	7,674.00	5,891.05-	32,420.00
302 FACILITY MAINTENANCE SUPP	1,939.36	1,939.36	5,400.00	3,460.64-	51,760.00
303 EQUIPMENT MAINTENANCE SUP	4,849.00	4,981.08	8,625.00	3,643.92-	79,028.00
307 AG., CONSERVATION & HORT S	238.75	238.75	13,171.00	12,932.25-	9,400.00
308 OTHER SUPPLIES	83.46	383.46	1,566.00	1,182.54-	500.00
309 PRINTING & BINDING	179.45	179.45	83.00	96.45	4,500.00
312 UNIFORMS & RELATED ITEMS	105.09	105.09	750.00	644.91-	25,840.00
401 COMMUNICATIONS	1,799.86	1,799.86	4,304.00	2,504.14-	16,000.00
402 RENTALS	145.00	145.00	2,666.00	2,521.00-	27,200.00
403 UTILITIES	1,687.24	1,687.24	4,532.00	2,844.76-	40,000.00
406 OUTSIDE SERVICES	256.32	256.32	6,666.00	6,409.68-	100.00
408 ADVERTISING & PUBLICITY	18.98	18.98	16.00	2.98	35,701.00
501 EQUIPMENT	1,929.68	2,931.83	5,949.00	3,017.17-	
DIVISION TOTAL	170,300.94	305,471.54	411,375.00	105,903.46-	2,468,433.00

IOWA DEPARTMENT OF NATURAL RESOURCES  
SUMMARY OF EXPENDITURES VS. YEAR-TO-DATE PLAN  
AS OF 08/31/90

PAGE 6

	TOTAL EXPENDITURES 08/01/90 - 08/31/90	TOTAL EXPENDITURES FY-TO-DATE	YEAR-TO-DATE PLAN	OVER/UNDER YEAR-TO-DATE PLAN	CURRENT ANNUAL BUDGET
6000 ENERGY & GEOLOGICAL RESOURCES					2,360,825.00
101 PERSONAL SERVICES	187,490.19	367,198.50	393,459.00	26,260.50-	69,900.00
202 PERSONAL TRAVEL	3,937.63	7,834.13	11,645.00	3,810.87-	28,800.00
203 STATE VEHICLE OPERATION	1,453.46	1,453.46	4,800.00	3,346.54-	27,302.00
204 STATE VEHICLE DEPRECIATIO	2,295.00	2,295.00	4,550.00	2,255.00-	4,600.00
301 OFFICE SUPPLIES	3,786.33	3,867.73	762.00	3,105.73	0.00
302 FACILITY MAINTENANCE SUPP	144.06	151.89	0.00	151.89	600.00
303 EQUIPMENT MAINTENANCE SUP	44.23	44.23	99.00	54.77-	25,310.00
308 OTHER SUPPLIES	1,789.86	1,965.36	4,217.00	2,251.64-	6,299.00
309 PRINTING & BINDING	2,723.70	2,723.70	1,047.00	1,676.70	18,500.00
401 COMMUNICATIONS	107.09	107.09	3,083.00	2,975.91-	2,400.00
402 RENTALS	175.00	350.00	400.00	50.00-	12,650.00
403 UTILITIES	17.72	17.72	2,108.00	2,090.28-	411,440.00
405 PROF & SCIENTIFIC SERVICE	12,216.96	12,216.96	68,572.00	56,355.04-	14,566.00
406 OUTSIDE SERVICES	934.00	1,361.11	2,426.00	1,064.89-	500.00
410 DATA PROCESSING	0.00	248.75	83.00	165.75	11,700.00
501 EQUIPMENT	460.52	460.52	1,950.00	1,489.48-	
DIVISION TOTAL	217,575.75	402,296.15	499,201.00	96,904.85-	2,995,392.00



## Environmental Protection Commission Minutes

September 1990

J080C103

IOWA DEPARTMENT OF NATURAL RESOURCES  
SUMMARY OF EXPENDITURES VS. YEAR-TO-DATE PLAN  
AS OF 08/31/90

PAGE 7

	TOTAL EXPENDITURES 08/01/90 - 08/31/90	TOTAL EXPENDITURES FY-TO-DATE	YEAR-TO-DATE PLAN	OVER/UNDER YEAR-TO-DATE PLAN	CURRENT ANNUAL BUDGET
7000 ENVIRONMENTAL PROTECTION DIV.					
101 PERSONAL SERVICES	460,023.78	934,076.61	1,078,456.00	144,379.39-	6,470,799.00
202 PERSONAL TRAVEL	6,470.90	10,890.49	25,578.00	14,687.51-	153,500.00
203 STATE VEHICLE OPERATION	3,236.93	3,236.93	8,499.00	5,262.07-	51,000.00
204 STATE VEHICLE DEPRECIATION	4,810.00	4,810.00	10,499.00	5,689.00-	63,000.00
301 OFFICE SUPPLIES	1,220.30	3,053.97	3,132.00	78.03-	18,800.00
302 FACILITY MAINTENANCE SUPP	0.00	44.65	333.00	288.35-	2,000.00
303 EQUIPMENT MAINTENANCE SUP	382.12	382.12	666.00	283.88-	4,000.00
308 OTHER SUPPLIES	659.67	991.37	4,504.00	3,512.63-	27,050.00
309 PRINTING & BINDING	285.35	285.35	2,038.00	1,752.65-	12,250.00
401 COMMUNICATIONS	2,307.33	2,501.07	6,274.00	3,772.93-	37,650.00
402 RENTALS	5,366.96	6,468.96	7,833.00	1,364.04-	47,000.00
403 UTILITIES	983.90	983.90	2,357.00	1,373.10-	14,145.00
405 PROF & SCIENTIFIC SERVICE	1,233.00	1,233.00	92,349.00	91,116.00-	554,100.00
406 OUTSIDE SERVICES	2,471.39	9,426.62	6,773.00	2,653.62	40,650.00
408 ADVERTISING & PUBLICITY	385.53	385.53	699.00	313.47-	4,200.00
501 EQUIPMENT	27,520.04	27,520.04	10,950.00	16,570.04	65,700.00
DIVISION TOTAL	517,357.20	1,006,290.61	1,260,940.00	254,649.39-	7,565,844.00

J080C103

IOWA DEPARTMENT OF NATURAL RESOURCES  
SUMMARY OF EXPENDITURES VS. YEAR-TO-DATE PLAN  
AS OF 08/31/90

PAGE 8

	TOTAL EXPENDITURES 08/01/90 - 08/31/90	TOTAL EXPENDITURES FY-TO-DATE	YEAR-TO-DATE PLAN	OVER/UNDER YEAR-TO-DATE PLAN	CURRENT ANNUAL BUDGET
8000 FISH AND WILDLIFE DIVISION					
101 PERSONAL SERVICES	883,097.45	1,755,881.67	1,817,207.00	61,325.33-	10,903,349.00
202 PERSONAL TRAVEL	29,290.80	31,359.20	59,612.00	28,252.80-	357,725.00
203 STATE VEHICLE OPERATION	31,129.07	31,129.07	84,758.00	53,628.93-	508,622.00
204 STATE VEHICLE DEPRECIATION	53,145.00	53,145.00	105,584.00	52,439.00-	633,550.00
301 OFFICE SUPPLIES	5,250.13	8,833.84	23,001.00	14,167.16-	138,064.00
302 FACILITY MAINTENANCE SUPP	19,720.90	24,070.37	56,912.00	32,841.63-	341,523.00
303 EQUIPMENT MAINTENANCE SUP	40,552.65	47,706.62	62,581.00	14,874.38-	375,578.00
307 AG., CONSERVATION & HORT S	42,770.21	44,183.08	53,310.00	9,126.92-	319,892.00
308 OTHER SUPPLIES	11,034.74	11,175.42	14,991.00	3,815.58-	90,007.00
309 PRINTING & BINDING	1,761.56	1,761.56	14,544.00	12,782.44-	87,276.00
312 UNIFORMS & RELATED ITEMS	2,607.66	2,647.88	7,578.00	4,930.12-	45,500.00
401 COMMUNICATIONS	15,108.44	16,441.22	27,230.00	10,788.78-	163,440.00
402 RENTALS	1,783.00	4,277.00	3,720.00	557.00	22,325.00
403 UTILITIES	17,191.51	17,737.57	35,755.00	18,017.43-	214,576.00
405 PROF & SCIENTIFIC SERVICE	3,000.00	6,000.00	22,999.00	16,999.00-	138,000.00
406 OUTSIDE SERVICES	13,886.59	14,380.49	21,902.00	7,521.51-	131,466.00
501 EQUIPMENT	14,225.91	31,107.58	25,976.00	5,131.58	155,876.00
602 OTHER EXPENSES & OBLIGATI	600.00	600.00	100.00	500.00	600.00
701 LICENSES	15.00	25.00	27.00	2.00-	170.00
DIVISION TOTAL	1,186,171.62	2,102,462.57	2,437,787.00	335,324.43-	14,627,539.00

J080C103

IOWA DEPARTMENT OF NATURAL RESOURCES  
SUMMARY OF EXPENDITURES VS. YEAR-TO-DATE PLAN  
AS OF 08/31/90

PAGE 9

	TOTAL EXPENDITURES 08/01/90 - 08/31/90	TOTAL EXPENDITURES FY-TO-DATE	YEAR-TO-DATE PLAN	OVER/UNDER YEAR-TO-DATE PLAN	CURRENT ANNUAL BUDGET
9000 WASTE MANAGEMENT AUTHORITY					
101 PERSONAL SERVICES	32,945.43	67,846.57	79,472.00	11,625.43-	476,841.00
202 PERSONAL TRAVEL	3,859.04	4,700.21	8,333.00	3,632.79-	50,000.00
301 OFFICE SUPPLIES	2,307.55	2,307.55	2,915.00	607.45-	17,500.00
308 OTHER SUPPLIES	287.50	287.50	1,083.00	795.50-	6,500.00
309 PRINTING & BINDING	1,937.00	1,937.00	5,916.00	3,979.00-	35,500.00
405 PROF & SCIENTIFIC SERVICE	3,183.62	3,183.62	9,166.00	5,982.38-	55,000.00
406 OUTSIDE SERVICES	532.61	1,608.52	2,365.00	756.48-	14,200.00
501 EQUIPMENT	5,768.77	5,768.77	2,000.00	3,768.77	12,000.00
DIVISION TOTAL	50,821.52	87,639.74	111,250.00	23,610.26-	667,541.00

E90Sep-41

September 1990

Environmental Protection Commission Minutes

Mr. Kuhn gave a detailed explanation of the reports.

General discussion followed.

This was an informational item; no action was required.

MONTHLY REPORTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

(Reports are shown on the following 14 pages)

## Environmental Protection

IOWA DEPARTMENT OF NATURAL RESOURCES  
ENVIRONMENTAL PROTECTION COMMISSION  
RULEMAKING STATUS REPORT  
September 1, 1990

September 1990

PROPOSAL	NOTICE TO COMMISSION	NOTICE PUBLISHED	RULES REVIEW COMMITTEE	HEARING	SUMMARY OF COMMENTS & RECOMMENDATIONS TO COMMISSION	RULES ADOPTED	RULES PUBLISHED	RULE EFFECTIVE
1. Ch. 22 - Controlling Air Pollution	5/21/90	6/13/90	7/10/90	7/11/90 7/12/90	9/17/90	*9/17/90	*10/17/90	*11/21/90
2. Ch. 40, 41 & 43 - Water Supply Surface Water Filtration	5/21/90	6/13/90	7/10/90	7/09/90 7/10/90 7/11/90 7/12/90	*10/15/90	*10/15/90	*11/14/90	*12/19/90
3. Ch. 60 & 62 - Definitions, Federal Effluent and Pretreatment Standards	7/16/90	8/08/90	9/ /90	9/04/90	*10/15/90	*10/15/90	*11/14/90	*12/19/90
4. Ch. 61 - Water Quality Standards - Human Health Criteria	6/18/90	7/11/90	8/14/90	8/01/90 8/02/90 8/07/90	*9/17/90	*9/17/90	*10/17/90	*11/21/90
5. Ch. 61 - Phase II Water Body Use Designations	8/20/90	9/17/90	*10/ /90	*10/09/90 *10/10/90 *10/11/90	*11/ /90	*11/ /90	*12/ /90	*1/ /91
6. Ch. 63 - Effluent Monitoring Requirements	9/17/90	*10/17/90	*11/ /90	*11/ /90	*12/ /90	*12/ /90	*1/ /91	*2/ /91
7. Ch. 69 & 121 - Land Application of Municipal Sludge and Other Wastes	5/21/90	6/13/90	7/10/90	7/09/90 7/10/90 7/11/90	9/17/90	*9/17/90	*10/17/90	*11/21/90
8. Ch. 70-75 - Flood Plain Development Permits	*10/15/90	*11/14/90	*12/ /90	*12/ /90	*1/ /91	*1/ /91	*2/ /91	*3/ /91
9. Ch. 100, 104, 105 - Compost and Yard Waste	4/16/90	5/16/90	6/08/90	6/5-7/90 6/11-12/90	9/17/90	*9/17/90	*10/17/90	*11/21/90
10. Ch. 102 - Financial Assurance/Closure and Post-Closure	*10/15/90	*11/14/90	*12/ /90	*12/ /90	*1/ /91	*1/ /91	*2/ /91	*3/ /91
11. Ch. 109 - Landfill Alternative Grants	*10/15/90	*11/14/90	*12/ /90	*12/ /90	*1/ /91	*1/ /91	*2/ /91	*3/ /91
12. Ch. 121 - Land Application of Sludge	*10/15/90	*10/14/90	*12/ /90	*12/ /90	*1/ /91	*1/ /91	*2/ /91	*3/ /91
13. Ch. 133 - Groundwater Cleanup Guidelines	*10/15/90	*11/14/90	*12/ /90	*12/ /90	*1/ /91	*1/ /91	*2/ /91	*3/ /91
14. Ch. 135 - UST Technical Standards	*10/15/90	*11/14/90	*12/ /	*12/ /90	*1/ /91	*1/ /91	*2/ /91	*3/ /91
15. Ch. 135 & 136 - UST Technical and Financial Assurance Rules	*10/15/90	*11/14/90	*12/ /	*12/ /	*1/ /91	*1/ /91	*2/ /91	*3/ /91

\*Projected

MONTHLY VARIANCE REPORT						
Month: August, 1990						
No.	Facility	Program	Engineer	Subject	Decision	Date
1.	City of Des Moines	Wastewater Construction		Land Application	Approved	08/30/90
2.	Pottawattamie County	Flood Plain	John Munson III, Assistant County Engineer	Freeboard	Approved	08/08/90
3.	Fountain View Estates Lake Dam-Polk County	Flood Plain	Snyder & Associates	Freeboard	Approved	08/17/90
4.	Allamakee County	Flood Plain	Shuck-Britson, Inc.	Freeboard	Approved	08/21/90
5.	City of Newton Sanitary Landfill	Solid Waste	Clapsaddle-Garber & Associates	Liner	Denied	08/22/90
6.	City of Oakland	Watersupply Construction	Kuehl & Payer	Construction Materials	Approved	08/13/90

E90Sep-43

September 1990

# Environmental Protection Commission Minutes

## TOPIC: Report of Hazardous Conditions

During the period August 1, 1990 through August 31, 1990, reports of 107 hazardous conditions were forwarded to the Central Office. Two incidents are highlighted below. A general summary and count by field office is attached. These do not include releases from underground storage tanks, which are reported separately.

Date Reported and County	Description: Material, Amount, Date of Incident, Cause, Location, Impact	Responsible Party	Response and Corrective Actions
08/03/90 Linn	An 11,000 gallon above ground tank was being filled with unleaded gasoline on August 3, 1990 when the operator noticed a leak at the base of the tank. Approximately 2,000 gallons of gasoline soaked into the ground inside the diked containment area.	Glen's Oil Inc. 1008 6th Street SW Cedar Rapids, Iowa 52404	Several holes were dug so the gasoline could flow into them. The gasoline was pumped out of the holes and the contaminated soil was excavated and disposed of at the Linn County Landfill.
08/06/90 Clinton	On August 6, 1990 a worker at the M.L. Kapp Power Station in Clinton forgot to shut-off a fill valve when filling a tank with sulfuric acid. 700 gallons of sulfuric acid flowed into the floor drain system which ultimately flows into Beaver Channel.	Interstate Power Company 1000 Main Street Dubuque, Iowa 52001	The company was instructed to monitor the pH at the outfall in Beaver Channel to make sure that the pH of the discharge did not exceed the WQS limits of 6.5 to 9.0 pH units.

NUMBERS IN PARENTHESES REPRESENT REPORTS FOR THE SAME PERIOD IN FISCAL YEAR 1989

Substance Type					Mode					
Month	Total # of Incidents	Petroleum Product	Agri. Chemical	Other Chemicals and Substances	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
August	107(47)	46(21)	18(5)	43(21)	77(32)	0(1)	20(9)	3(1)	0(0)	7(4)

Total # of  
Incidents Per  
Field Office  
This Period

01	02	03	04	05	06
10	13	12	07	35	30

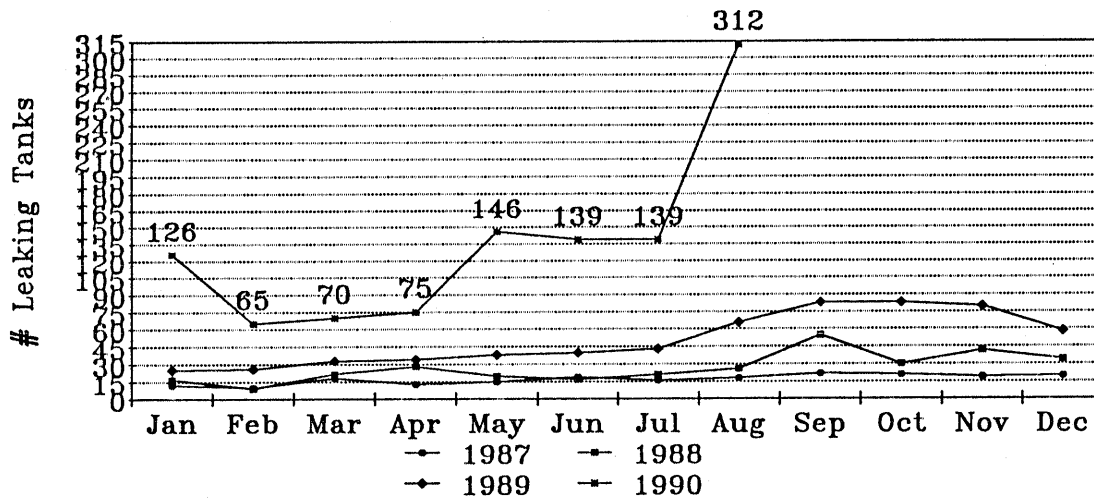
## REPORTS OF RELEASES FROM UNDERGROUND STORAGE TANKS

During the period of August 1, 1990 through August 31, 1990, the following number of releases from underground storage tanks were identified.

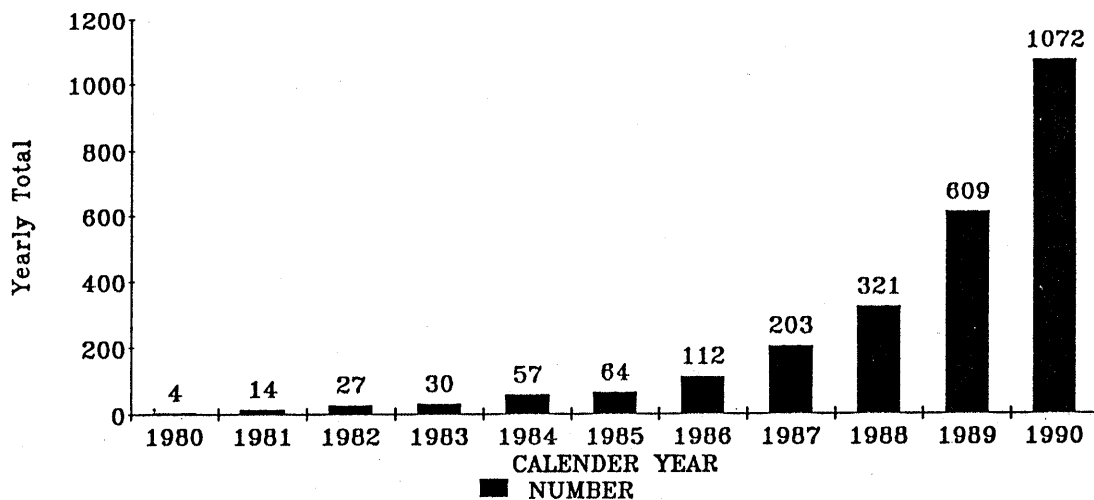
312 (66)

The number in parentheses represents the number of releases during the same period in Fiscal Year 1989.

## UST RELEASES IDENTIFIED



## Leaking Usts - 1980 to Present



September:

The following new enforcement actions were taken last month:

Commission Minutes

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Lakewood Hills Apartments, Coralville (6)	Drinking Water	Public Notice	Order/Penalty RESCINDED	8/01/90 8/24/90
Vernon Heights Mobile Home Park, Cedar Rapids (1)	Drinking Water	Public Notice	Order/Penalty	8/01/90
Bankston Public Water System (1)	Drinking Water	Public Notice	Order/Penalty	8/01/90
Robert E. Zezulka, Allamakee County (1)	Solid Waste	Illegal Disposal	Amended Order	8/01/90
Mt. Joy Mobile Home Park, Davenport (6)	Drinking Water	Public Notice	Order/Penalty	8/01/90
Orchard Water Works (1)	Drinking Water	Public Notice	Order/Penalty RESCINDED	8/01/90 8/24/90
Country Estates Mobile Home Park, Long Grove (6)	Drinking Water	Public Notice	Order/Penalty RESCINDED	8/01/90 8/24/90
IBP, inc., Louisa County (6)	Wastewater	Compliance Schedule Discharge Limits	Order	8/02/90
Living History Farms - Solar Home, Urbandale (5)	Drinking Water	Monitoring/Reporting- Bacteria	Order	8/14/90
Blanchard, City of (4)	Drinking Water	Monitoring/Reporting- Bacteria	Order/Penalty	8/14/90
Jerald Gronau, Michael Haws, Joyce Haws, Ogden (3)	Underground Tank	Remedial Action	Order	8/14/90
P & B Rental Corp.; Carl Hankenson; Jerry Krause d/b/a Rajac Inc.; Wilbur Numelin d/b/a Lake View Enterprises, Mason City (2)	Underground Tank	Remedial Action	Order	8/14/90
Brooklyn Service Center; Manatt's Inc.; James Rhoades, Brooklyn (5)	Hazardous Condition	Remedial Action	Order	8/14/90
Maysville Municipal Water Dept. (6)	Drinking Water	Public Notice	Order/Penalty	8/14/90
Clutier Water Supply (5)	Drinking Water	Monitoring/Reporting- Other Inorganics	Order/Penalty	8/14/90
Newhall, City of (1)	Wastewater	MIP	Order	8/14/90
Lloyds Mobile Home Park, Camanche (1)	Drinking Water	Public Notice	Order	8/15/90
Holnam Northwestern Cement, Mason City (2)	Air Quality	Emission Standards	Referred to AG	8/21/90
John J. Witt, Long Grove (6)	Solid Waste	Illegal Disposal	Referred to AG	8/21/90
Larry Denham, Ottumwa (6)	Solid Waste	Illegal Disposal	Referred to AG	8/21/90
Swea City Oil Co./Irene Fagerlund, Swea City (2)	Underground Tank	Remedial Action	Referred to AG	8/21/90
Amoco Oil Co., Des Moines/ Ft. Madison (5 & 6)	Underground Tank	Remedial Action	Referred to AG	8/21/90
Craig Natvig, Mason City (2)	Solid Waste	Operation Without Permit	Referred to AG	8/21/90
Juanita Brading, Dexter (5)	Wastewater	Discharge Limits	Order	8/24/90
Dexter, City of (5)	Wastewater	Monitoring/Reporting Operational Violations	Order/Penalty	8/24/90
Vincent Martinez d/b/a Martinez Sewer Service, Davenport (6)	Hazardous Condition	Remedial Action	Order/Penalty	8/29/90

## Summary of Administrative Penalties

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Winter Mobile Home Park (New Hampton)	WS	200	7-25-90
Grand Vu Mobile Home Park (Tripoli)	WS	200	7-25-90
Ruth Ann Coe (Mason City)	AQ/SW	800	7-30-90
Amoco Oil Company (Des Moines)	UT	1,000	8-15-90
*Gilbert John Fjone (Swaledale)	SW	250	8-22-90
Knapp Mobile Home Court No. 4 (Dubuque)	WS	260	8-26-90
Gerald G. Pregler (Dubuque Co.)	SW	1,000	9-02-90
Donald R. Null (Clinton Co.)	AQ/SW	1,000	9-06-90
Meadow Gold Dairies (Des Moines)	WW	1,000	9-26-90
Charles and Susan Behr (Algona)	AQ	600	9-28-90
Lytton, City of	WW	300	9-28-90
St. Ansgar, City of	WW	400	9-30-90
Bankston Public Water System	WS	200	10-03-90
Vernon Heights Mobile Home Park (Cedar Rapids)	WS	200	10-03-90
Mt. Joy Mobile Home Park (Davenport)	WS	200	10-04-90
Taylor Oil Co., Inc. (Missouri Valley)	WS	215	10-13-90
Blanchard, City of	WS	245	10-16-90
Maysville Municipal Water Dept.	WS	200	10-17-90
Dexter, City of	WW	1,000	10-28-90
Vincent Martinez d/b/a Martinez Sewer (Davenport)	HC	1,000	-----
HVX, Inc. d/b/a 4-Sons Handy Shop (Grimes)	WS	240	-----
Oak Manor Mobile Home Court (Ottumwa)	WS	200	-----
Castana Municipal Water Supply	WS	230	-----
Delaware Municipal Water Supply	WS	100	-----
Gillett Grove Water Supply	WS	100	-----

\*On Payment Schedule

The following cases have been referred to the Attorney General:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
OK Lounge (Marion)	WS	448	11-01-87
Richard Davis (Albia)	SW	1,000	2-28-88
**Handi-Klasp, Inc. (Webster City)	WW/HC	1,000	8-02-88
McCabe's Supper Club (Burr Oak)	WS	335	12-14-88
Eagle Wrecking Co. (Pottawattamie Co.)	SW	300	5-07-89
*Twelve Mile House (Bernard)	WS	119	5-20-89
*Lawrence Payne (Ottumwa)	SW	425	6-19-89
Stan Moser (Hudson)	SW	250	6-27-89
Richard Kleindolph (Muscatine)	SW	500	8-17-89
Robert Fisch (Manchester)	AQ	600	9-01-89
William L. Bown (Marshalltown)	SW	1,000	10-01-89
Darlo Schaap (Sioux Center)	SW	600	1-14-90
Wellendorf Trust (Algona)	AQ/SW	460	2-12-90
Donald P. Ervin (Ft. Dodge)	SW	1,000	3-05-90
East Side Acres (Moville)	WS	200	12-26-89
East Side Acres (Moville)	WS	600	4-01-90
Craig Natvig (Cerro Gordo Co.)	SW	750	6-18-90

\*\* Independent Attorney General Action

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
AMOCO Oil Co. (Des Moines)	UT	1,000
Iowa City Regency MHP	WW	1,000
Thomas E. Lennon (Barnum)	FP	700
Great Rivers Coop (Atavia)	HC	1,000
1st Iowa State Bank (Albia)	SW	1,000
Cloyd Foland (Decatur)	FP	800
City of Marcus	WS	1,000
Superior-Ideal, Inc. (Oskaloosa)	WW	1,000
IBP, inc. (Columbus Junction)	WW	600
King's Terrace Mobile Home Court (Ames)	WW	1,000
King's Terrace Mobile Home Court (Ames)	WS	315
Premium Standard Farms, Inc. (Boone Co.)	WW/AQ	700
Amoco Oil Co. (West Des Moines)	UT	1,000
Circle Hill Farms, Ltd. (Ellsworth)	SW	600
Cozy Cafe (Lucas)	WS	500
Stone City Iron & Metal Co. (Anamosa)	AQ	1,000
Manson Water Supply	WS	500
Joe Villinger (West Point)	SW	500
Midwest Mining, Inc. (Harrison Co.)	FP	800
Holiday Lake Water System Ltd. (Brooklyn)	WS	700
Rasch Construction, Inc. (Ft. Dodge)	AQ	1,000
Gerald Reimer (Clayton County)	SW	600
Louisa Courts (Muscatine)	WS	400
Orchard, City of	WW	1,000
Harcourt Water Supply	WS	500
Sioux City, City of	WW	1,000
Donald Ray Maasdam (Pocahontas Co.)	SW	1,000
Vern Starling (Boone Co.)	SW	1,000
Des Moines, City of	HC	1,000
Carl A. Burkhart d/b/a American Wrecking Co.	AQ/SW	1,000
Van Dusen Airport Services (Des Moines)	HC	1,000
Des Moines, City of	WW	1,000
Troy Mills Dam Assn. (Troy Mills)	FP	300
Maple Crest Motel and MHP (Mason City)	WS	350
Geneva Grain & Lumber, Inc. (Franklin Co.)	WW/SW	1,000
Plymouth County Solid Waste Agency	SW	1,000
Trash Reduction Systems, Inc. (Polk Co.)	SW	1,000

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
Breda Water Supply	WS	200
Brayton Water System	WS	100
Stringtown Country Cafe (Lenox)	WS	200
Mason City Water Supply	WS	100
Alden Water Supply	WS	200
American Meat Protein Corp. (Lytton)	WW	300
Clutier Water Supply	WS	100
Park Village Apartments (Waverly)	WS	100
Webster Co. Solid Waste Comm. (Webster Co.)	SW/AQ	1,000
Carroll Municipal Water Supply	WS	100

TOTAL \$2,400

The \$200 penalty assessed Lakewood Hills Apartments was rescinded.

The \$200 penalty assessed Orchard Water Works was rescinded.

The \$200 penalty assessed Country Estates Mobile Home Park was rescind



## Environmental Protection Commission Minutes

September 1990

DEPARTMENT OF NATURAL RESOURCES  
ENVIRONMENTAL PROTECTION COMMISSION  
ATTORNEY GENERAL REFERRALS  
September 1, 1990

Name, Location and Region Number	New or Updated	Program	Alleged Violation	DNR Action	Status	Date
Aidex Corporation Council Bluffs (4)		Hazardous Waste	Release of Hazardous Substances	Referred to Attorney General	Referred EPA suit filed State intervention Motion to dismiss granted/denied Filed interlocutory appeal Decision in favor of govt. Case Management Hearing	12/16/82 2/26/87 3/05/87 2/26/88 3/11/88 4/04/89 8/08/90
Amoco Oil Company Des Moines/Ft. Madison (5&6)	New	Underground Tank	Remedial Action	Referred to Attorney General	Referred	8/21/90
William L. Bown Marshalltown (5)		Solid Waste	Open Dumping	Order/Penalty	Referred Petition Filed Default Judgment	11/20/89 3/03/90 7/27/90
Bozarth and Bell, Inc. Davenport (6)	Updated	Solid Waste	Open Dumping	Order	Referred Default Judgment \$7500 Second Lawsuit Filed Consent Decree Filed New Case Hearing Set Stipulation Filed (\$12,000)	2/20/87 6/22/87 8/07/88 8/23/88 11/01/88 8/16/90 8/16/90
Bridgestone/Firestone, Inc. Des Moines (5)		Wastewater Hazardous Condition	Prohibited Discharge Failure to Notify	Referred to Attorney General	Referred	5/21/90
Carolan, Don and Hanson Tire Service, Cresco (1)		Solid Waste Air Quality	Illegal Disposal Open Burning	Referred to Attorney General	Referred	2/20/90
CARP vs. DNR	Updated	Wastewater	IBP Permit	Amended Permit	Suit Filed Dismissed Order Granting Reinstatement Stay Request Withdrawn Dismissed	5/20/88 1/01/90 3/27/90 4/13/90 8/27/90
Clear Lake Sanitary District (2)		Wastewater	Compliance Schedule	Referred to Attorney General	Referred Petition Filed	4/16/90 7/30/90
Cerro Gordo County Area Landfill Agency (2)		Solid Waste	Cover Violations	Referred to	Referred Petition Filed	4/16/90 6/25/90
Chalfant, Milo, et.al. Webster City (2)	Updated	Solid Waste	Open Dumping	Order/Penalty	Referred Suit Filed	9/20/89 8/08/90
Clinton Pallet Co. Clinton (6)		Solid Waste	Open Dumping	Referred to Attorney General	Referred Suit Filed Default Judgment	6/21/89 11/09/89 4/ /90
Cooper, Kenneth/Hunter Oil Minburn (5)	Updated	Storage Tank	Spill Cleanup	Order	Cooper Referred Hunter Referred Site Assessment DNR Review Remediation Plan	8/17/88 2/ /90 4/20/90 8/22/90
Davis, Richard & Sonja (5)		Solid Waste	Open Unpermitted Dumping	Referred to Attorney General	Referred Suit Filed Default Judgement Filed Motion to Deny Default Motion Overruled	6/22/88 8/11/88 4/21/89 6/14/89 10/04/89
Jimmy Dean Meat Co., Inc. (5)		Wastewater	Pretreatment	Referred to Attorney General	Referred	4/16/90
Denham, Larry Ottumwa (6)	New	Solid Waste	Illegal Disposal	Referred to Attorney General	Referred	8/21/90

DEPARTMENT OF NATURAL RESOURCES  
ENVIRONMENTAL PROTECTION COMMISSION  
ATTORNEY GENERAL REFERRALS  
September 1, 1990

Sen<sup>1</sup>

Name, Location and Region Number	New or Updated	Program	Alleged Violation	DNR Action	Status	Date
Dexter Co., The Fairfield (6)		Wastewater	Prohibited Discharge Effluent Limit Discharge	Referred to Attorney General	Referred Petition Filed	3/20/90 7/31/90
Drewelow, Harvey d/b/a Hanson Tires New Hampton (1)		Air Quality Solid Waste	Open Burning Illegal Disposal	Referred to Attorney General	Referred	6/19/90
Drips, Joseph and Diana vs. DNR	New	Wastewater	Private Sewage Disposal	Defending	Suit Filed	8/06/90
Ervin, Don Webster County (2)		Solid Waste	Operation Without Permit	Order/Penalty	Referred Motion for Summary Judgment Hearing Held Judgment for \$1,000	4/16/90 6/02/90 7/02/90 7/13/90
Fairfield, City of (6)		Wastewater	Monitoring/Reporting Discharge Limitations Operation Violation	Order	Referred Petition Filed	2/20/90 7/31/90
Giametta, Dominic d/b/a Fred's 66, Davenport (6)		Underground Tank	Remedial Action	Order/Penalty	Referred Petition Filed	12/11/89 7/02/90
Eagle Wrecking Co. Pottawattamie Co. (4)		Solid Waste	Open Dumping	Order/Penalty	Referred Bankruptcy Claim Filed	6/21/89 7/24/89
Fisch, Robert Manchester (1)		Air Quality	Open Burning	Order/Penalty	Referred Motion for Summary Judgment Judgment for \$600	10/24/89 12/05/89 2/27/90
Fjone, Gilbert Swaledale (2)		Solid Waste	Open Dumping	Order/Penalty	Referred Payment Schedule	10/24/89 6/ /90
Holnam Northwestern Cement Mason City (2)	New	Air Quality	Emission Standards	Referred to Attorney General	Referred	8/21/90
Humboldt Co. Landfill Commission (2)	Updated	Solid Waste	Cover Violations	Order/Penalty	Referred Petition Filed	11/20/89 8/30/90
Iben, Fred Monticello (1)	Updated	Solid Waste	Open Dumping	Order	Referred Petition Filed Consent Decree (\$2,000)	11/20/89 4/20/90 8/24/90
Iowa Dress Club, Inc. Oskaloosa (5)		Wastewater Solid Waste	Prohibited Discharge Illegal Disposal	Referred to Attorney General	Referred	7/16/90
Jorgenson, Harris (2)		Air Quality	Operation Without Permit	Referred to Attorney General	Referred	4/16/90
Kleindolph, Richard Muscatine (6)	Updated	Solid Waste	Open Dumping	Order/Penalty	Referred Petition Filed Default Judgment	10/24/89 4/06/90 8/13/90
Kollbaum, Garry East Side Acres Merville (3)		Drinking Water	MCL-Nitrate	Order/Penalty	Referred Petition Filed	5/21/90 7/02/90
Lakeshore Drive, Inc. et.al. Osceola (5)		Flood Plain	Reconstruction	Order	Referred Petition Filed Judgment vs. Lakeshore	11/20/89 2/07/90 4/09/90
Larson, Daryl, D.V.M. Audubon (4)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	11/20/89
Lucas-Monroe County Sanitary Landfill and Chariton, City of	Updated	Solid Waste	Operation Violations	Referred to Attorney General	Referred Consent Decree (\$3,000)	5/21/90 8/27/90

DEPARTMENT OF NATURAL RESOURCES  
ENVIRONMENTAL PROTECTION COMMISSION  
ATTORNEY GENERAL REFERRALS  
September 1, 1990

Name, Location and Region Number	New or Updated	Program	Alleged Violation	DNR Action	Status	Date
Mathern, Larry (Larry's DX) Ralph Beck; Walker Oil Co. (5)		Underground Tank	Remedial Action	Referred to Attorney General	Referred Petition Filed	2/20/90 7/02/90
Mike McGinnis, Alfred Patten and Dennis Lewis Pottawattamie Co. (4)		Solid Waste	Open Dumping	Referred to Attorney General	Referred Suit Filed	10/24/89 11/15/89
Mercy Hospital Medical Center Des Moines (5)		Solid Waste	Illegal Disposal	Referred to Attorney General	Referred	4/16/90
Miller Products Co. (5)		Wastewater	Pretreatment	Order/Penalty	Referred	4/16/90
Monfort, Inc. (5)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	12/11/89
Moser, Stan	Updated	Solid Waste	Open Dumping	Referred to Attorney General	Referred Petition Filed Trial Set Court Order Contempt Hearing Hearing Continued	7/19/89 9/12/89 3/15/90 1/24/90 8/24/90
Natvig, Craig Mason City (2)	New	Solid Waste	Operation Without Permit	Order/Penalty	Referred	8/21/90
Osceola, City of (5)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	4/16/90
Pete's Sunoco/ Popejoy Septic West Des Moines		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	6/19/90
Pruess v. IDNR	Updated	Hazardous Condition	DNR Defendant	Abatement Order	Suit Filed Hearing DNR Motion to Dismiss Hearing Amended Petition DNR Motion to Dismiss Hearing Set Dismissed	4/24/90 4/30/90 5/14/90 5/15/90 5/25/90 6/18/90 8/10/90 8/21/90
Root, William/LAWNKEEPERS Mitchell County (2)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	7/16/90
Sani-Wash Corporation Clinton (6)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	8/23/89
Schaap, Darlo Sioux Center (3)		Solid Waste	Illegal Disposal	Order/Penalty	Referred Petition Filed	2/20/90 6/21/90
Schultz, Albert and Iowa Iron Works Ely (1)	Updated	Solid Waste	Open Dumping	Referred to Attorney General	Referred Suit Filed	9/20/89 8/08/90
Sevig, Gordon, et.al. Walford (1)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Criminal Charges Filed	9/20/89 7/15/90
Siouxland Quality Meat Co., Inc. Sioux City (3)		Wastewater	Discharge Limitations	Referred to Attorney General	Referred Petition Filed	2/20/90 7/02/90
Stickle Enterprises, Ltd. et.al., Cedar Rapids (6)		Air Quality	Open Burning	Referred to Attorney General	Referred Suit Filed Trial Set	9/20/89 10/17/89 10/16/90
Stringtown Country Cafe, Lenox (4)	Updated	Drinking Water	Monitoring/Reporting - Nitrate	Order/Penalty	Referred Penalty Paid	3/20/90 8/02/90

DEPARTMENT OF NATURAL RESOURCES  
ENVIRONMENTAL PROTECTION COMMISSION  
ATTORNEY GENERAL REFERRALS  
September 1, 1990

Name, Location and Region Number	New or Updated	Program	Alleged Violation	DNR Action	Status	Date
Swea City Oil Co./Irene Fagerlund, Swea City (2)	New	Underground Tank	Remedial Action	Referred to Attorney General	Referred	8/21/90
Touchdown Co., et. al., Webster City (2)		Underground Tank	Prohibited Discharge Failure to Report Hazardous Condition	Referred to Attorney General	Referred	6/21/89
Wellendorf Trust and Lamont Wellendorf, Algona (2)		Air Quality Solid Waste	Open Burning Illegal Disposal	Order/Penalty	Referred	3/20/90
Witt, John J. Long Grove (6)	New	Solid Waste	Illegal Disposal	Referred to Attorney General	Referred	8/21/90
Wright County Area Landfill Authority (2)	Updated	Solid Waste	Cover Violations	Order/Penalty	Referred Petition Filed	3/20/90 5/30/90
Yocum, Max Johnson (6)	Updated	Flood Plain	Prohibited Construction	Defending Referred to Attorney General	Suit Filed Referred Counter Claim Filed	12/18/84 7/12/85 10/85
					Trial Held Judgment for Department Court of Appeals Affirmed Judgment Further Review Denied Penalty Amt. Determined(\$38,000)	6/16/87 8/18/87 11/29/88 2/06/89 8/06/90
63-180 Truckstop (Moore Oil) Malcom (5)	Updated	Wastewater	Monitoring/Reporting	Referred to Attorney General	Referred Petition Filed Consent Decree (\$2,000)	6/19/90 7/31/90 8/20/90

DEPARTMENT OF NATURAL RESOURCES  
ENVIRONMENTAL PROTECTION COMMISSION  
CONTESTED CASES  
SEPTEMBER 1, 1990

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
1-23-86	Oelwein Soil Service	Administrative Order	WW	Landa	Hearing continued.
12-03-86	Waukee, City of	Administrative Order	WS	Hansen	Construction completed.
5-12-87	Iowa City Regency MHP	Administrative Order	WW	Hansen	Hearing held 11-03-87.
6-11-87	Thomas Lennon	Administrative Order	FP	Clark	Appealed to District Court.
8-10-87	Great Rivers Co-op	Administrative Order	HC	Landa	Final report approved. Settlement proposed.
1-15-88	First Iowa State Bank	Administrative Order	SW	Kennedy	Oral arguments 7/27/90. Briefs due 8/90.
2-04-88	Beaverdale Heights, Woodsman; Westwood Hills	Administrative Order	WS	Landa	Compliance actions completed.
2-05-88	Warren County Brenton Bank	Administrative Order	UT	Landa	Phase II completed. Report reviewed.
3-01-88	Cloyd Foland	Administrative Order	FP	Clark	Appealed to Supreme Court.
5-16-88	Marcus, City of	Administrative Order	WS	Landa	Compliance achieved. Settlement proposed.
7-01-88	Superior Ideal, Inc.	Administrative Order	WW	Hansen	Hearing continued/settlement discussions.

DEPARTMENT OF NATURAL RESOURCES  
ENVIRONMENTAL PROTECTION COMMISSION  
CONTESTED CASES  
SEPTEMBER 1, 1990

September 1990

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
7-25-88	Nishna Sanitary Services, Inc.	Permit Conditions	SW	Landa	Compliance initiated/plans submitted/reviewed.
8-03-88	Hardin County	Permit Conditions	SW	Landa	Compliance initiated/plans submitted/reviewed.
10-03-88	IBP, Columbus Junction	Administrative Order	WW	Clark	Proposed decision 6/26/90; IBP appealed.
10-20-88	Worth Co. Co-Op Oil Northwood Cooperative Elevator Sunray Refining and Marketing Co.	Administrative Order	HC	Landa	Compliance initiated. Assessment report submitted.
12-02-88	Davis Co. Board of Supervisors	Administrative Order	AQ	Landa	Hearing continued.
1-25-89	Amoco Oil Co. - Des Moines	Administrative Order	UT	Landa	Settlement proposed. Clean-up progressing.
2-10-89	Northwestern States Portland Cement Company	Site Registry	HW	Landa	Settlement proposed.
2-10-89	Baier/Mansheim/Moyer	Site Registry	HW	Landa	Hearing continued. Settlement proposed.
2-13-89	King's Terrace Mobile Home Court	Administrative Order	WW	Murphy	Hearing rescheduled for 12/20/90.
2-13-89	King's Terrace Mobile Home Court	Administrative Order	WS	Murphy	Hearing rescheduled for 12/20/90.
2-16-89	John Deere Co. - Dubuque	Site Registry	HW	Landa	Proposed decision 8/30/90.
2-16-89	Premium Standard Farms	Administrative Order	WW/AQ	Murphy	Hearing continued.
3-14-89	Dannie R. Hoover and Bill Edwards	Flood Plain Permit Issuance	FP	Clark	Remand hearing 7/17&20/90.
5-01-89	Amoco Oil Co. - West Des Moines	Administrative Order	UT	Landa	Compliance initiated.
6-08-89	Shaver Road Investments	Site Registry	HW	Landa	Hearing continued. Discovery initiated.
6-08-89	Hawkeye Rubber Mfg. Co.	Site Registry	HW	Landa	Hearing continued. Discovery initiated.
6-08-89	Lehigh Portland Cement Co.	Site Registry	HW	Landa	Hearing continued. Discovery initiated.
6-08-89	Jay Winders	Permit Denial	FP	Clark	Settlement proposed.
6-12-89	Amana	Site Registry	HC	Landa	Negotiating before filing.
6-19-89	Grand Mound, City of	Administrative Order	WW	Hansen	Order to be amended.
6-22-89	Chicago & Northwestern Transportation Co. Hawkeye Land Co. Blue Chip Enterprises	Administrative Order	HC	Landa	Hearing held. Briefs filed. Reply briefs filed.

September 1990

## Environmental Protection Commission Minutes

DEPARTMENT OF NATURAL RESOURCES  
 ENVIRONMENTAL PROTECTION COMMISSION  
 CONTESTED CASES  
 SEPTEMBER 1, 1990

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
7-11-89	Circle Hill Farms, Ltd.	Administrative Order	SW	Kennedy	Settlement pending.
7-26-89	Cozy Cafe	Administrative Order	WS	Hansen	Const. permit applic. under review by WS.
7-26-89	Midland Brick	Administrative Order	AQ	Landa	Compliance initiated.
9-01-89	Stone City Iron & Metal	Administrative Order Permit Denial	AQ	Kennedy	Temporary permit issued 5/31/90.
10-12-89	Electro-Coatings, Inc.	Administrative Order	HC	Landa	Settlement proposed.
10-24-89	Farmers Cooperative Elevator Association of Sheldon	Site Registry	HC	Landa	Negotiation proceeding.
10-24-89	Consumers Cooperative Assoc.	Site Registry	HC	Landa	Negotiation proceeding.
11-03-89	Bridgestone/Firestone, Inc.	Site Registry	HC	Landa	Hearing continued pending negotiations.
11-15-89	Alcoa	Site Registry	HC	Landa	Settled.
11-17-89	Aten Services, Inc.	Administrative Order	SW/UT	Landa	Compliance initiated.
12-11-89	Leo Schachtner	Permit Issuance	FP	Clark	Hearing continued.
12-21-89	Robert Coppinger and Velma Nehman	Flood Plain Permit Denial	FP	Clark	Proposed decision 5/17/90. Appealed.
1-02-90	Midwest Mining, Inc.	Administrative Order	FP	Clark	Negotiating before filing.
1-04-90	Joe Villinger	Administrative Order	SW	Kennedy	Negotiating before filing.
1-08-90	Northwestern States Portland Cement Co.	Permit Amendment	WW	Landa	Negotiating before filing.
1-18-90	Midwest Fly Ash and Materials	Permit Variance Denial	SW	Landa	Hearing rescheduled for 10/1/90.
2-07-90	Jerry Jones	401 Denial	WW	Murphy	Hearing held; set for 9/25/90.
2-13-90	Kenneth M. Rasch d/b/a Rasch Construction, Inc.	Administrative Order	AQ	Kennedy	Negotiating before filing.

## Environmental Protection Commission Minutes

September 1990

DEPARTMENT OF NATURAL RESOURCES  
 ENVIRONMENTAL PROTECTION COMMISSION  
 CONTESTED CASES  
 • SEPTEMBER 1, 1990

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
2-15-90	Holiday Lake Water System, Ltd.	Administrative Order	WS	Hansen	Submittal by facility under review by WS.
3-05-90	Gerald Reimer	Administrative Order	SW	Kennedy	Negotiating before filing.
3-12-90	Louisa Courts	Administrative Order	WS	Hansen	Proposed decision 7/13/90. Appealed to EPC.
3-20-90	Kaneb Pipeline Co.	Administrative Order	HC	Landa	Hearing rescheduled for 10/8/90.
3-22-90	Vern Starling	Administrative Order	SW	Kennedy	Hearing set for 9/14/90.
3-26-90	Loretta June Novak and Mr. and Mrs. Robert Booth, Jr.	Administrative Order	UT	Landa	Hearing held 8/31/90.
3-27-90	Orchard, City of	Administrative Order	WW	Hansen	Negotiating before filing.
4-18-90	Harcourt, City of	Administrative Order	WS	Hansen	Proposed decision issued 8/30/90.
4-23-90	Sioux City, City of	Administrative Order	WW	Hansen	Informal meeting held on 5/18/90.
4-26-90	Donald Ray Maasdam	Administrative Order	SW	Kennedy	Proposed decision received 8/22/90.
5-07-90	W.G. Block Co./Hoffman Silo Site	Site Registry	HW	Landa	Hearing continued. Negotiating.
5-08-90	Texaco Inc./Chemplex Company Site	Site Registry	HW	Landa	Hearing set for 8/13/90.
5-08-90	Webster Co. SW Commission	Administrative Order	SW/AQ	Kennedy	Appeal withdrawn. Penalty paid.
5-09-90	Raccoon Valley State Bank	Administrative Order	HC	Landa	Hearing continued. Negotiating.
5-09-90	Square D Company	Site Registry	HW	Landa	Hearing continued. Negotiating.
5-09-90	Joe & Virginia Koester/ Donn & Donna Patience	Water Use Permit	WR	Clark	Hearing rescheduled for 11/20/90.
5-11-90	Carl A. Burkhart	Administrative Order	AQ/SW	Kennedy	Motion for default filed 8/31/90.
5-14-90	Van Dusen Airport Services	Administrative Order	HC	Landa	Compliance initiated.
5-15-90	Des Moines, City of	Administrative Order	HC	Landa	Hearing continued. Negotiating.
5-15-90	Des Moines, City of	Administrative Order	WW	Hansen	ALJ decision. Appeal untimely.

September 1990

## Environmental Protection Commission Minutes

DEPARTMENT OF NATURAL RESOURCES  
 ENVIRONMENTAL PROTECTION COMMISSION  
 CONTESTED CASES  
 SEPTEMBER 1, 1990

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
5-18-90	Latimer, City of	Open Burning Variance	AQ	Landa	Informal procedures initiated.
5-23-90	Solvay Animal Health, Inc.	NPDES Permit Cond.	WW	Hansen	Hearing rescheduled for 9/14/90.
5-24-90	Carroll, City of	Administrative Order	WS	Hansen	Settled.
6-06-90	Geneva Grain & Lumber, Inc.	Administrative Order	WW/SW	Kennedy	Negotiating before filing.
6-11-90	Troy Mills Dam Assoc.	Administrative Order	FP	Clark	Negotiating before filing.
6-14-90	Willow Tree Investments, Inc.	Administrative Order	UT	Landa	Negotiating before filing.
6-18-90	Sioux City, City of	NPDES Permit Cond.	WW	Hansen	Negotiating before filing.
6-18-90	Ames, City of	NPDES Permit Cond.	WW	Hansen	Hearing set for 10/23/90.
6-20-90	Des Moines, City of	NPDES Permit Cond.	WW	Hansen	Informal meeting set for 8/8/90.
6-26-90	Maple Crest Motel and Mobile Home Park	Administrative Order	WS	Hansen	Negotiating settlement.
7-02-90	Keokuk Savings Bank and Trust Keokuk Coal Gas Site	Site Registry	HW	Landa	Sent to DIA.
7-11-90	Chicago & Northwestern Co.	Administrative Order	NR	Kennedy	Negotiating before filing.
7-16-90	McAtee Tire, Inc.	Site Registry	HW	Landa	Appeal withdrawn.
7-23-90	IBP, Dakota City	Administrative Order	WW	Hansen	Negotiating settlement.
7-25-90	Thomas and Arlene Griffin	Water Use Permit	WR	Clark	Hearing set for 9/27/90.
7-26-90	Plymouth County SW Agency	Administrative Order	SW	Kennedy	Negotiating before filing.
7-30-90	Key City Coal Gas Site; Murphy Trust & Howard Pixler	Site Registry	HW	Landa	Sent to DIA.
8-01-90	J.I. Case Company	Site Registry	HW	Landa	Sent to DIA.
8-02-90	Trash Reduction Systems, Inc.	Administrative Order	SW	Kennedy	Sent to DIA.
8-06-90	Lake Manawa Nissan, Inc.	Administrative Order	UT	Landa	Sent to DIA.



Mr. Stokes gave an explanation of the reports and noted he had nothing to highlight.

Chairperson Mohr asked about a specific tank closing and removal in DeWitt, Iowa.

Mr. Stokes replied that he will check on it and provide the requested information.

Clark Yeager asked about the Handi-Klasp case and noted that he previously requested a status report on it.

Mr. Stokes stated that the Attorney General's office is taking independent action on that case and that he will check with the legal staff and then provide more details.

Mr. Stokes gave a report on the incident where pesticides were placed on the lawn of DALs employee, Jim Cunningham.

This was an informational item; no action was required.

FINAL RULE--CHAPTER 22, PREVENTION OF SIGNIFICANT DETERIORATION (PSD)

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

At the May Environmental Protection Commission meeting approval was granted to take the attached rule to public hearing.

This rule updates the existing rules which adopt by reference federal Prevention of Significant Deterioration (PSD) permitting regulations.

The effect of this update is to add nitrogen dioxide (NO<sub>2</sub>) increments to existing sulfur dioxide (SO<sub>2</sub>) and particulate increments. Increments define the maximum additional contamination which larger sources can add to the existing pollutant levels even if all other air quality standards are met.

Federal regulations require the Environmental Protection Agency to impose these limits after November 19, 1990, in those states which have not adopted these NO<sub>2</sub> increments.

Hearings on the proposed rules were held on July 11 and 12. No comments were received.

The Commission is asked to approve for adoption the attached final rule.

## Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission adopts amendments to Chapter 22, "Controlling Pollution," Iowa Administrative Code.

This amendment pertains to the adoption of EPA regulations which establish the maximum increase in ambient nitrogen dioxide concentrations allowed in an area above the baseline concentration. These maximum allowable increases are called increments. These rules apply to major sources constructed or modified in areas which are expected to remain in attainment of ambient air quality standards and are a part of the Prevention of Significant Deterioration (PSD) program.

The Department currently has increments for total suspended particulates (TSP) and sulfur dioxide (SO<sub>2</sub>). This amendment will add increments for nitrogen dioxide (NO<sub>2</sub>).

These amendments appeared as a Notice of Intended Action, ARC 963A in the Iowa Administrative Bulletin published on June 13, 1990. There were no comments on the proposed amendments, and these amendments are identical to those published as ARC 963A.

This rule becomes effective in November 21, 1990.

These rules are intended to implement Iowa Code section 455B.133.

---

Amend 567-22.4(455B) as follows:

Special requirements for major stationary sources located in areas designated attainment or unclassified (PSD). Except as provided in subrule 22.4(1), the following federal regulations pertaining to the prevention of significant deterioration are adopted by reference, 40 C.F.R. subsection 52.21 as amended through July-17-1987 October 17, 1988.

---

Date

---

Larry J. Wilson, Director

Mr. Stokes gave a brief explanation of the rules.

*Motion was made by Richard Hartsuck to approve Final Rule--Chapter 22, Prevention of Significant Deterioration (PSD). Seconded by Mike Earley. Motion carried unanimously.*

FINAL RULE--CHAPTERS 100, 104, AND 105, YARD WASTE DISPOSAL AND COMPOSTING FACILITIES

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission has received copies of proposed rules amending Chapter 100, 104, and 105 to address legislative changes to the Code of Iowa 455D.9. The rules will address the ban on yard waste burial beginning January 1, 1991.

The department conducted hearings in Des Moines, Iowa City, Independence, Atlantic, Mason City, and Storm Lake at which written and oral comments were presented. A summary of comments received and staff response to those comments is attached. The rules have been amended as a result of public comment in the following areas:

567--105.1(1)(b) has been amended by clarifying what types of waste would be composted at solid waste composting facilities.

567--105.1(4) has been deleted.

567--105.4(2) has been amended by clarifying what an all-weather surface is.

567--105.4(3) has been amended by increasing the volume limit per acre for the yard waste composting facilities. This was increased based on an average facility with windrows 9' x 14' and a distance of 8 feet between windrows. The subrule has further been amended by adding a weight to volume conversion factor for grass, leaves, and wood chips.

567--105.4(11) has been amended by clarifying the types of records which must be maintained at a yard waste composting facility. The retention period of those records has been changed from 5 years to 2 years. The department feels 2 years is a more reasonable period for record retention at yard waste facilities.

567--105.4(13) has been deleted.

567--105.6(7) has been amended to allow storage of compost on an all-weather surface rather than an impervious base. The department feels an all-weather surface will provide sufficient environmental control for the compost.

567--105.6(8)(a) has been amended to require twice weekly temperature readings rather than daily readings.

567--105.6(11) has been amended by clarifying what is meant by biological decontamination.

567--105.9(2) has been amended by deleting the entire rule.

567--105.12 has been amended by using a cumulative metals limit at an application rate of 30 ton per acre per year for 20 years.

September 1990

Environmental Protection Commission Minutes

567--105.13(3) has been amended by adding a land application rate of 20 ton/ acre/year. The application rate previously proposed by referencing chapter 121.

567--105.13(4) has been amended by allowing a two week storage period for yard waste prior to land application

The Commission is asked to adopt this rule at this time.

(Rule and responsiveness summary is shown on the following 22 pages)

ENVIRONMENTAL PROTECTION COMMISSION [567]

Adopted Rule

Pursuant to Iowa Code Section 455B.304, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 100, "Scope of Title-Definitions-Forms-Rules of Practice," and Chapter 104, "Sanitary Disposal Projects with Processing Facilities," and rescind Chapter 105 "Composting Facilities," and adopt a new Chapter 105, "Yard Waste Disposal and Solid Waste Composting Facilities," Iowa Administrative Code.

Notice of Intended Action was published in IAB, Vol. XII, No. 23 (5/16/90) p. 2042, ARC 888A.

The department held public hearings in Iowa City, Des Moines, Atlantic, Independence, Storm Lake, and Mason City. The department received oral and written comments to the proposed rule. The following changes were made in response to public comment:

ITEM 1. 567--105.1(1)b has been amended to clarify what types of waste solid waste composting includes.

567--105.1(3) has been amended to include recent legislative amendments in HF2534, requiring ordinances to be in place 120 days from adoption of this rule.

567--105.3(6) has been amended to clarify emergency access requirements.

567--105.4(2) has been amended to clarify all-weather surface requirements.

567--105.4(3) has been amended to provide a conversion factor for weight of yard waste to volume of yard waste. An increase to allow 6,000 cubic yards of yard waste per acre has also been added.

567--105.4(11) has been amended by specifying what records must be kept at a yard waste compost facility.

567--105.4(13) a & b have been deleted.

567--105.4(14) has been renumbered as 105.4(13)

567--105.4(15) has been renumbered as 105.4(14) and "b" has been deleted.

567--105.6(7) has been amended to require storage of finished compost on an all-weather surface rather than the impervious base.

567--105.6(8)"a" has been amended to require twice weekly temperature readings rather than daily readings.

567-105.12 has been amended by raising the metals concentrations. The previous concentrations were calculated using a soil cation exchange capacity of <5. A cation exchange capacity of <5 is not common in Iowa.

567--105.13(4) has been amended to allow two weeks storage of yard waste before land application rather than one week.

These rules become effective November 7, 1990.

The following amendments are adopted.

---

ITEM 1. Amend rule 567--100.2(455B) by adding the following definitions in alphabetical order:

"Compost" means organic material resulting from biological decomposition of waste which can be used as a soil conditioner or soil amendment.

"Firewood processing facilities" means facilities which process or allow the public to process trees into firewood.

"Tree chipping facilities" means facilities which chip trees and brush for the purpose of mulch production.

"Yard waste" means debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

ITEM 2. Amend rule 567--104.1(455B) as follows: 567--104.1(455B) Scope and applicability. Any sanitary disposal project utilizing any of the equipment described in this chapter shall comply with the requirements for that equipment set out in this chapter, in addition to the requirements of 567--Chapter 102. If a composting process is to be used, the contents of 567--Chapter 105 are applicable.

ITEM 3. Amend subparagraph 104.9(1)"b"(4) to read as follows:

(4) Storage facilities, Except--for--compost,--storage facilities shall be enclosed to prevent blowing litter and roofed to prevent precipitation into any solid waste.

ITEM 4. Rescind subrules 104.10(4), 104.10(6) and 104.10(7), paragraph "b."

ITEM 5. Renumber the existing subrules 104.10(5) and 104.10(7) as 104.10(4) and 104.10(5), respectively, and renumber the remaining subrules 104.10(8) to 104.10(12) accordingly.

ITEM 6. Rescind 567--Chapter 105 and insert the following new chapter in lieu thereof:

Chapter 105  
Yard Waste Disposal and Solid Waste  
Composting Facilities

567--105.1(455B) (455D) General. This chapter shall apply to the composting of solid wastes, except animal manure, animal bedding and crop residue. If animal wastes are mixed with other solid wastes for the purpose of composting, this chapter does apply. Land application of yard waste shall be in conformance with this chapter and 567--Chapter 121, Iowa Administrative Code.

105.1(1) Two types of composting are allowed, yard waste and solid waste.

a. Yard waste composting involves only yard waste. If the yard waste composting facilities can operate in accordance with these rules, they are exempt from having a permit. If collection and recirculation of water is used, all solid waste composting criteria are applicable.

b. Solid waste. Composting involves any waste used in addition to or other than yard waste. Solid waste composting facilities shall require a permit. Solid waste composting facilities may include: windrows that are turned frequently, static piles with air circulation, aerated in-vessel techniques or other methods approved by the department. Solid waste composting shall include composting sewage sludge, municipal solid waste or any other waste with or without yard waste.

105.1(2) Beginning January 1, 1991, burial of yard waste at a sanitary landfill is prohibited. However, yard waste which was separated at its source from other solid waste may be accepted by a sanitary landfill for the purposes of soil conditioning or composting. The incineration of yard waste at a sanitary landfill is prohibited.



105.1(3) By 120 days after adoption of this rule, each city and county shall, by ordinance, require persons within the city or county to separate yard waste from other solid waste generated. By January 1, 1991, municipalities which provide for a collection system for solid waste shall provide for a collection system for yard waste which is not composted.

105.1(4) The use of yard waste as land cover or soil conditioner is not prohibited. Land application of yard waste should be in conformance with 567--Chapters 120 and 121, Iowa Administrative Code.

567--105.2(455B, 455D) Exemptions. Projects not exempted must follow requirements relating to type of waste being composted as stated in this chapter.

105.2(1) Yard waste generated, composted and disposed of on the same premises where it originated does not require a permit. This composting shall not create a nuisance.

105.2(2) Tree chipping facilities are not regulated by this chapter.

105.2(3) Firewood processing facilities are not regulated by this chapter.

105.2(4) Composting facilities using only animal manure, animal bedding or crop residues as compost materials are not regulated by this chapter.

567--105.3(455B, 455D) General operating requirements for all composting facilities. Solid waste composting facilities shall be operated in conformance with 567--Chapter 102 (567--102.1(455B) to 102.13(7) and this rule. The plans required in 567--102.13(455B) shall detail the means by which the following operating requirements shall be complied with. Yard waste composting facilities do not have

to comply with 567--Chapter 102, but they shall keep records on the premises showing compliance with this rule.

105.3(1) Materials resulting from composting or similar processes shall be innocuous and shall contain no sharp particles which would cause injury to persons handling the compost. Sale shall be in compliance with all applicable federal and state laws and local ordinances and regulations.

105.3(2) Solid waste which cannot be composted or which is removed during processing shall be handled in a manner which will not create pollution or a nuisance and shall be disposed of by another method provided in 567--Chapters 100 to 110, Iowa Administrative Code.

105.3(3) Solid waste including yard waste shall be unloaded at the operating areas only when an operator is on duty at that area.

105.3(4) The operating area for composting shall be as small as practicable and shall be surrounded with appropriate barriers to prevent litter from blowing beyond the operating areas.

105.3(5) The site shall be fenced to control access and a gate shall be provided at the entrance to the site and kept locked when an attendant or operator is not on duty.

105.3(6) Emergency access shall be provided to the site. Alley ways shall be maintained to provide access for fire fighting equipment.

567--105.4(455B, 455D) Specific requirements for yard waste composting facilities. This rule applies to facilities composting only yard waste. Facilities in conformance with this chapter shall not require a permit to operate.

105.4(1) Yard waste to be composted must be taken out of containers. Yard waste may be left in the bags only if the

bags are biodegradable. The biodegradable bags shall be opened by some means before composting.

105.4(2) An all-weather surface must be used for the unloading area. The all-weather surface shall be made of materials that will permit accessibility during periods of inclement weather.

105.4(3) The area of the composting facility must be large enough for the volume of yard waste composted. One acre shall be used for every 6,000 cubic yards of yard waste composted. Windrows and alleys between windrows shall be kept distinct at all times. The composting facility may determine the volume of yard waste accepted by using the following conversion factors:

1 ton of grass = 5 cubic yards

1 ton of leaves = 8 cubic yards

1 ton of wood chips = 7.9 cubic yards

105.4(4) Compost must be turned at least once per month.

105.4(5) Composting shall be done on a surface which is 1 percent to 3 percent slope.

105.4(6) The facility must be 100 feet from any existing habitable residence unless there is written agreement with the owner of the residence and the site is separated by natural objects, plantings, fences, or other appropriate means. The residence must be in existence on the date of application for the original permit from the department. The written agreement shall be filed with the county recorder and recorded for abstract of title purposes, and a copy submitted to the department.

105.4(7) Ponding of water must be prevented.

105.4(8) Measures shall be taken to prevent water from running onto the facility from adjacent land.

105.4(9) Sites shall have a permanent sign posted at the entrance specifying:

- a. Name of operation,
- b. The operating hours,
- c. The name and telephone number of the responsible official,
- d. Materials which are accepted.

105.4(10) Litter shall be confined to the property on which the composting facility is located. At the conclusion of each day of operation, any litter strewn beyond the confines of the operating area shall be collected and stored in covered leakproof containers or properly disposed.

105.4(11) Record keeping requirements. The yard waste compost facility shall maintain the following records: dates the compost was turned, volume of yard waste accepted, and volume of compost removed from the site. These records shall be maintained for a period of two years after last use of the compost site. These records shall be available at the site or city hall for inspection and evaluation by the department at any time during normal operating hours.

105.4(12) Notification. Before opening a yard waste composting facility, the department shall be notified in writing of the location of the composting facility. The notice shall also contain the legal description of the site, the landowner, the responsible official, and capacity of the site.

105.4(13) If finished compost is to be offered for sale as a soil conditioner or fertilizer, the compost must be registered by the department of agriculture and land stewardship under Iowa Code chapter 200, Iowa Fertilizer Law.

105.4(14) Storage of finished yard waste compost. Storage of finished compost is limited to 12 months.

567--105.5(455B, 455D) Specific design requirements for solid waste composting facilities. The plans required in rule 567--102.12 (455B) and the following design requirements shall be met.

105.5(1) Detailed engineering drawings of the site showing all initial and permanent roads, buildings and equipment to be installed; unloading and holding areas; fences and gates; landscaping devices; personnel and maintenance facilities; sewer and water lines.

105.5(2) Method of composting.

105.5(3) Duration of composting.

105.5(4) Method of removal of composted materials.

105.5(5) Final disposition of the composted materials.

105.5(6) The facility must be 500 feet from any existing habitable residence unless there is written agreement with the owner of the residence and the site is separated by natural objects, plantings, fences, or other appropriate means. The residence must be in existence on the date of application for the original permit from the department. The written agreement shall be filed with the county recorder and recorded for abstract of title purposes, and a copy submitted to the department.

105.5(7) Measures shall be taken to prevent water from running onto the facility from adjacent land.

105.5(8) Composting must take place on an impervious base that can support the load of the equipment used. The permeability coefficient of the base must be less than  $1 \times 10^{-7}$  cm/sec (0.00028 ft/day). This must be determined by permeameter testing of a minimum of two undisturbed samples.

105.5(9) The base may be constructed with asphaltic cement concrete, portland cement concrete, or similar materials able to support the equipment load and meet the permeability coefficient.

105.5(10) The low permeability, thickness, and continuity of the base material must be maintained.

105.5(11) The area of the base must be adequate for the volume of solid waste being composted. Design calculations must be submitted supporting the proposed area of the base. These calculations should show support for equipment load and composting process used.

105.5(12) A detention basin must be constructed to provide collection of runoff water.

a. The detention basin shall be designed to contain runoff from a 25-year, 24-hour precipitation event. Pertinent information can be found in the department of agriculture and land stewardship publication, "Climatology of Iowa Series #2--1980." The detention basin must also collect all runoff water resulting from the composting facility.

b. The detention basin shall be located, constructed, and tested according to Chapter 18C of the "Iowa Wastewater Facilities Design Standards." (See 567--64.2(9)"b")

(1) One or more piezometers must be used to determine the water table as referenced in 18C.3.5.2.

(2) If a clay liner is used, the coefficient of permeability must be less than  $1 \times 10^{-7}$  cm/sec (0.00028 ft/day). This must be determined by permeameter testing of a minimum of two undisturbed samples.

(3) If a synthetic liner is used, testing for leaks must be done according to manufacturer's directions or methods approved by the department.

105.5(13) The detention basin shall not discharge to surface waters except as allowed by an NPDES permit.

105.5(14) A maintenance plan for the detention basin shall be submitted to the department. It should address maintenance of design volume and repair of leaks. If a clay

liner is used, the plan should also address repair of cracks that form due to drying or as a result of the freeze/thaw cycle.

567--105.6(455B, 455D) Specific operating requirements for solid waste composting facilities. The plans required in 567--102.13(455B) shall detail the means by which the following operating requirements shall be met.

105.6(1) If mechanical sorting, grinding, or other processing of the waste occurs, operation shall be in conformance to 567--Chapter 104.

105.6(2) Process water must be available as needed during times of low precipitation and for enclosed projects.

105.6(3) The method to be used to prevent discharge from the detention basin must be specified (sewer or hauling equipment).

105.6(4) The compost must be turned at least once per week to provide aeration, or a system of air circulation must be used.

105.6(5) The method used to provide temperature control for proper composting and pathogen destruction must be specified.

105.6(6) If the criteria for finished compost as specified in 567--105.9(455B, 455D) cannot be met, compost must be returned to process, disposed of in a landfill or other approved disposal method.

105.6(7) All holding areas for composted material and storage of finished (cured) compost must occur on an all-weather surface. The all-weather surface shall be accessible during periods of inclement weather.

105.6(8) To monitor the operation, records shall be maintained by the operator as required by the director. The records shall be maintained on the premises for departmental

review upon inspection. These records shall include but not be limited to the following:

- a. Twice weekly temperature readings of compost piles, batches, or windrows;
- b. Volume of waste accepted daily.
- c. Volume or weight of compost removed from facility.
- d. Documentation showing compliance with 105.12 including application site legal descriptions.

105.6(9) A copy of the permit, engineering plans and reports shall be kept at the site at all times.

105.6(10) The compost must be passed through a screen with holes that are three-eighths inch or less in size.

105.6(11) If equipment is not dedicated to the compost project, it must be cleaned before removing it from the site. If sewage sludge is composted, the cleaning must include pathogen destruction. This may be accomplished by using a hot soap spray or any other germicidal product.

567--105.7 Reporting requirements for solid waste composting facilities.

- a. An annual report of the analytical results required in 105.9 and record keeping required in 105.6(8) and 105.9(1) must be submitted to the department on July 1.

- b. The records required in 105.6(8) and 105.9(1) should be condensed into monthly totals. The twice weekly temperature reports should consist only of data required to support 105.9(1).

567--105.8(455B, 455D) Closure requirements. Solid waste composting facilities shall be closed in conformance with their approved closure plan, this rule, the requirements in rule 567--104.11 (455B) and the requirements of 567--Chapter 102. Upon review of the closure plan, the



department may require groundwater monitoring systems at the facility.

567--105.9(455B, 455D) Finished compost. Only cured solid waste compost meeting the following criteria may be considered as finished compost which is ready for use.

105.9(1) Compost must be held at a temperature above 55 degrees Celsius (131 degrees Fahrenheit) for at least two weeks for the purpose of pathogen destruction. Other time periods may be approved by the department for aerated static piles or in-vessel composting.

567--105.10(455B, 455D) Storage of finished solid waste compost.

105.10(1) Storage of finished compost is limited to 12 months.

567--105.11(455B, 455D) Compost for sale. If the compost is to be offered for sale as a soil conditioner or fertilizer, the compost must be registered by the department of agriculture and land stewardship under Iowa Code chapter 200, Iowa Fertilizer Law.

567--105.12(455B, 455D) Application rates for finished compost. Compost resulting from only yard waste is not subject to the following application rates. Yard waste compost may be applied at any rate. The following application rates apply to all other composted materials meeting the criteria in 105.9(455B, 455D).

The application rates are not in excess of 30 tons per acre/year dry weight and the constituent levels do not exceed the levels specified below per acre per year (Note: Records maintained for the purpose of documenting compliance

with this rule must include waste loading rate, concentration and calculated constituent loading rate for all lands so utilized).

Cumulative Limits  
Soil Cation Exchange Capacities

<u>Metal</u>	<u>&lt;5</u>	<u>5-15</u>	<u>&gt;15</u>
Cadmium (Cd)	4.4 lb/ac	8.9 lb/ac	17.8 lb/ac
Copper (Cu)	125 lb/ac	250 lb/ac	500 lb/ac
Lead (Pb)	500 lb/ac	1,000 lb/ac	2,000 lb/ac
Nickel (Ni)	125 lb/ac	250 lb/ac	500 lb/ac
Zinc (Zn)	250 lb/ac	500 lb/ac	1,000 lb/ac

If the above-mentioned criteria cannot be met, a land application permit is required pursuant to 567--121.3(455B).

567--105.13(455B, 455D) Land application of yard waste. Land application of yard waste is allowed.

105.13(1) The yard waste shall be taken out of containers and the containers shall be removed from the land application site.

105.13(2) The site shall be managed to prevent waste from leaving the property line.

105.13(3) The land application shall not exceed 20 tons per acre per year.

105.13(4) Yard waste can be stored for two weeks before it must be land applied.

These rules are intended to implement Iowa Code Supplement sections 455B.304 and 455D.9.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Larry J. Wilson, Director

(A:EP104.RUL/247-90/pg)

## Responsiveness Summary

This responsiveness summary has been prepared pursuant to written formal comments received by the Department of Natural Resources on proposed changes to Chapter 100 and 105 Yard Waste Disposal and Solid Waste Composting Facilities. All comments were received on or before June 15, 1990.

### Commentors

- |                               |  |
|-------------------------------|--|
| 1. Joe Bolkcom                | 12. Thomas Henderson                     |
| 2. Rick Yoerger, P.E.         | 13. Dennis Reha                          |
| 3. Joyce DeLong, P.E.         | 14. James Mollendor                      |
| 4. John Bellizzi, P.E.        | 15. WJ Hausler, Keith Cherryholmes (UHL) |
| 5. Robert Barak               | 16. Steven Woodley, CET                  |
| 6. J Donald Musil             | 17. Steve Wilson                         |
| 7. Donn Dierks, Glenn Jackson | 18. John Thalaker                        |
| 8. Marilyn Harding            | 19. Robert Marquart                      |
| 9. Richard Harding            | 20. Robert Payer, P.E.                   |
| 10. David M. Fox              | 21. James Resnick                        |
| 11. Marsha Cory               | 22. Richard Schiek                       |

1. (16)(20) **Comment:** RE: "Yard Waste" (def) The definition as proposed does not limit the size of trees which are considered yard waste. The thrust of the comment was that no consideration or distinction is made between different sizes of tree limbs and trunks. The commentor felt that a distinction should be made.

**Response:** It is the department's position that all trees may be processed into mulch or offered as firewood if they cannot be composted. Tree stumps are not included in the definition therefore stumps can be landfilled. It is the department's interpretation that the legislature wanted trees to be included in the definition of yard waste. The department has also just recently adopted rules allowing municipalities to burn trees, so this should no longer pose a problem.

**Recommended Action:** No change

2. (11) **Comment:** RE: "Yard Waste" (def) The proposed definition is in direct conflict with the definition of solid waste in 455B.301, Code of Iowa, which includes rubbish. The definition of rubbish in 455B.301 includes grass clippings. The Code further states in 455B.307(1) "a private agency or public agency shall not dump or deposit or permit the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the director." The definition is further complicated by the Air Quality section definition of landscape waste. The definitions need to be clarified.

**Response:** The definition as proposed is not in conflict with the definition of solid waste. Yard waste is a subcategory of solid waste. 455B.301 states that solid waste must be deposited in a sanitary disposal project approved by the director. The department believes that the proposed rules facilitate the approval of disposal sites for yard waste, therefore no conflict occurs.

**Recommended Action:** No change

3. (7)(20) **Comment:** RE: 105.1 General; This section states that animal manure, animal bedding, and crop residues which are composted are not regulated by Chapter 105, some type of regulation is needed for commercial animal manure composting facilities.

**Response:** The department has exempted animal producers from land application permits historically. Commercial animal manure composting facilities are covered under 567 Chapter 65 "Land Application of Animal Wastes".

**Recommended Action:** No change

4. (12) **Comment:** RE: 105.1 General; Solid wastes other than yard waste should not be composted because of increased problems associated with odor, rodents, and disease.

**Response:** In some cases problems may arise with improperly managed solid waste composting facilities. The proposed rule changes require a stringent permitting process for solid waste composting facilities. Facilities that are properly designed and operated should not create any problems.

**Recommended Action:** No change

5.(10) **Comment:** RE: 105.1(1)b; The distinction between "yard waste" and "solid waste" composting should be made clearer.

**Response:** The department concurs.

**Recommended Action:** Amend 105.1(1)b by adding the following sentence: "Solid waste composting shall include composting sewage sludge, municipal solid waste or any other waste with or without yard waste."

6. (1) **Comment:** RE: 105.1(3); What does collection system mean? Does this simply imply that the same method of collection must be used for yard waste as other solid waste?

**Response:** This section is from the statute. The department has interpreted collection system as meaning the same type of collection system as other solid waste, therefore if solid waste is picked up at curbside yard waste must also be picked up at curbside. The method of collection does not have to be the same, for example a packer truck may be used for solid waste and a vacuum truck for yard waste.

**Recommended Action:** No change

7. (20) **Comment:** RE: 105.1(4); What does state and local agencies must give preference to the use of composted materials in all land maintenance activities mean?

**Response:** The department has interpreted this statement to mean state and local agencies shall use composted materials instead of soil in all aspects of land maintenance when practicable and available. Composted materials should be used at new building sites, along roadsides in need of soil amendments and in maintenance of parks and golf courses. However, this is an environmental goal rather than an enforceable rule, therefore this rule will be deleted.

**Recommended action:** Delete 105.1(4)

8. (22) **Comment:** RE: 105.2; Yard waste composting facilities should be added to the list of exemptions.

**Response:** Yard waste composting facilities in the proposed rules are allowed to operate without a permit if they can comply with the proposed rules. The department believes yard waste facilities need some type of operational standards to ensure environmental safety. The department believes there are more environmental concerns relating to yard waste composting than firewood processing or tree chipping facilities.

**Recommended Action:** No change

9. (22) **Comment:** RE: 105.4; This section states that yard waste composting facilities do not require a permit, but it is followed by 15 subsections which mandate everything that would be required by a permit. What is the logic?

**Response:** This is more a question of semantics. The department is essentially permitting yard waste composting facilities by rule. The department has proposed a set of criteria with which a facility can operate without going through the rigorous permitting process. This provision will alleviate the six month waiting period which the average delay for review and issuance of a department permit. This provision also eliminates the dependency on costly technical help. The department has reviewed the 15 requirements and does not believe that they are overly restrictive. The department does believe the analytical testing on the finished yard waste compost is unnecessary.

**Recommended Action:** Amend 105.4(13) by rescinding entire rule which dealt with analytical testing requirements for yard waste compost.

10. (20) **Comment:** RE: 105.4(1); Kraft paper or some other organic bag should be recommended other than biodegradable bags. Biodegradable plastic bags do not degrade rapidly enough to be practical for a yard waste composting facility.

**Response:** The department believes the choice between biodegradable bags should be left up to the individual facilities. Studies are currently being conducted on many different types of biodegradable bags. The department will be closely monitoring the projects and may amend the rules if sufficient data is collected to warrant a change.

**Recommended Action:** No change

11. (20) **Comment:** RE: 105.4(2); What is required for an all weather surface?

**Response:** The department's intention is to require an all weather unloading area which is accessible during periods of inclement weather. Examples of all weather materials are stone aggregates and other materials which would allow accessibility during times of inclement weather.

**Recommended Action:** Amend 105.4(2) by adding the following sentence: "The all weather surface shall be made of materials that will permit accessibility during periods of inclement weather."

12. (20) **Comment:** RE: 105.4(3); Can the DNR provide a density factor for converting cubic yards of yard waste to tons? The limit of 3,000 cubic yards per acre is a little restrictive.

**Response:** The rules will be amended to incorporate a required volume limit and conversion factor. The conversion factor was obtained from the State of Wisconsin yard waste criteria. The 3,000 cubic yard limit is a little too restrictive. A new restriction will be calculated based on a typical windrow compost facility. The windrows will be estimated at 9'x 14' with 8' alleys in between. This calculates out to approximately 6,000 cubic yards per acre.

**Recommended Action:** Amend 105.4(3) by adding the following: "One acre shall be used for every 6,000 cubic yards of yard waste. Windrows and alleys between windrows shall be kept distinct at all times. The composting facility may determine the volume of yard waste accepted by using the following conversion factors:

1 ton of grass = 5 cubic yards

1 ton of leaves = 8 cubic yards

1 ton of wood chips = 7.9 cubic yards

13. (22) **Comment:** RE: 105.4(10); What is the reasoning behind the collection of litter at yard waste composting sites?

**Response:** The department recognizes that some municipal solid waste will inevitably be mixed with the yard waste which is accepted by the yard waste composting facility. It is the department's intention to require any waste other than yard waste accepted at the yard waste composting facility to be collected and disposed of in accordance with the Iowa Administrative Rules on solid waste disposal. The department would also consider pieces of bags to be litter if they created a nuisance to the public. The department would also consider large volumes of leaves leaving the facility to be litter if a public nuisance was created.

**Recommended Action:** No change

14. (22) **Comment:** RE: 105.4(11); What is the reasoning for requiring recordkeeping at yard waste composting facilities?

**Response:** The department requires recordkeeping at all solid waste disposal sites that do not require a permit to show compliance with the Iowa Administrative Code rules pertaining to each site. This requirement in the yard waste composting rules is consistent with all other unpermitted solid waste disposal programs. The department intended the recordkeeping at yard waste composting facilities to be minimal. The department believes the recordkeeping requirements need to be clarified as to the specific records which need to be kept.

**Recommended Action:** Amend 105.4(11) by replacing with : The yard waste compost facility shall maintain the following records: dates the compost was turned, volume of waste accepted, and volume of compost removed from the site. These records shall be maintained for a period of two years after closing the yard waste site. These records shall be available at the site or city hall for inspection and evaluation by the department at any time during normal operating hours.

15.(22) **Comment:** RE: 105.4(12); Why require yard waste composting facilities to notify the department before beginning operation if the facilities do not have to be permitted?

**Response:** The department must be made aware of all solid waste disposal facilities to determine compliance with the Iowa Administrative Rules. This is consistent with all other solid waste disposal facility requirements for unpermitted facilities. We do not anticipate that this notification will place any burden on the facility owners. The rules allow facilities to be permitted by rule therefore the department must be notified of the waste disposal activity.

**Recommended Action:** No change

16.(2)(3)(20) **Comment:** RE: 105.4(13)b; What is the criteria and method used for the oxygen stability test? What is the justification for use of this test?

**Response:** The department was looking for an analytical test to show stability of compost. The department

became aware of the oxygen stability test for determining compost stability. As the department gained more information about the test we determined the test did not meet our expectations. The department believes that the compost oxygen stability test should not be required for yard waste compost.

**Recommended Action:** Amend 105.1(13)b by deleting the entire subrule.

17.(10)(20) **Comment:** RE: 105.5(8); The permeability requirement for the impervious base is 20 times more restrictive than the sewage lagoon standards, why? Does the impervious base have to be more than one layer thick?

**Response:** It is the department's intention to limit the amount of leachate which has the potential to contaminate groundwater from solid waste composting facilities. In the promotion of this goal the department feels the requirement of an impervious base having a permeability coefficient of  $1 \times 10^{-7}$  cm/sec is not overly stringent. The permeability coefficient is well within reach of many base construction materials such as portland cement concrete, asphaltic cement concrete, or a mixture thereof. The permeability coefficient is consistent with the compacted clay requirements for other solid waste disposal facilities. It is the department's intention that the base will have as many layers as is needed to meet the permeability coefficient and support the equipment being used. It is the solid waste composting facility design engineer's responsibility to design a base which meets the department's environmental concerns.

**Recommended Action:** No change

18.(20) **Comment:** RE: 105.5(10); If and asphaltic or portland cement concrete material is used in a single layer concept, will joint sealing be required on a periodic basis?

**Response:** A periodic maintenance program must be developed. Joint sealing may be a method of base maintenance.

**Recommended Action:** No change

19. (20) **Comment:** RE: 105.5(12)a; Can a facility be designed to include a earthen lagoon totally off the pad within an earthen dike area that will retain the one/two year recurrence interval and downgradient from the earthen lagoon construct a detention basin that will hold the 24 hour/25 year event for extreme cases?

**Response:** The department would look at your proposal during the permitting process and determine whether this would be permissible. The proposal as it stands would seem to meet the detention basin criteria.

**Recommended Action:** No change

20. (20) **Comment:** RE: 105.5(14); Can bentonite seal be used to repair cracks in the detention basin and can this be construed as a satisfactory response to the maintenance plan requirement.

**Response:** Bentonite seal is construction material and cannot be construed as a maintenance plan for the detention basin. If properly applied bentonite may be an integral part of an entire detention basin maintenance plan.

**Recommended Action:** No change

21. (20) **Comment:** RE: 105.6(5); The requirement for specification of temperature control methods needs to be clarified.

**Response:** The department believes that temperature controls need to be addressed in the permitting process. Temperature control can be achieved through many processes depending upon type of composting technology used. If temperature control is achieved through turning and combining windrows it needs to be stated in the permit proposal.

**Recommended Action:** No change

22. (20)(21) **Comment:** RE: 105.6(7); Why does the finished compost have to be stored on the impervious base? Can it be stored at another area if it has a base that meets the permeability requirement of  $1 \times 10^{-7}$  cm/sec.

**Response:** The department's intention was to require the finished compost to be stored on a surface that would be accessible during all times of the year. The department believes the compost could be stored on any area at the facility which would meet the all-weather designation.

**Recommended Action:** Amend 105.6(7) to read as follows: All holding areas for composted material and finished (cured) compost must occur on an all weather surface. The all weather surface shall be accessible during periods of inclement weather.

23. (21) **Comment:** RE: 105.6(8)a; Reading compost temperatures twice per week is sufficient once the process has started. Daily readings are time consuming and hard on the equipment.

**Response:** The department's intention is to ensure pathogen destruction and monitoring guidelines for the composting process itself. The department concurs that daily temperature readings may be too restrictive.

**Recommended Action:** Amend 105.6(8)a by replacing with the following: Twice weekly temperature readings of compost piles, batches, or windrows.

24. (20) **Comment:** RE: 105.6(11); What is meant by biological decontamination?

**Response:** The department's intention is to have the equipment cleaned with chemicals which will kill any pathogens which may be present in the sewage sludge which is being composted. This can be done in many ways and with many products.

**Recommended Action:** Amend 105.6(11) by adding the following sentence: This may be accomplished by using a hot water and soap spray or other types of germicidal products.

25. (3)(15)(20)(21) **Comment:** RE: 105.9; The oxygen stability test does not have a standard method. The value of biological monitoring of finished compost has not been demonstrated nor have methods been developed or evaluated to properly support regulations. The sustained temperature requirement of 55 degrees celsius for two weeks will kill all Salmonella and any other pathogens so testing need not be required.

**Response:** The department was looking for an analytical tests to ensure environmental and public safety. We became aware of the oxygen stability test through rule development research. After gaining more knowledge about the test we determined it did not meet our expectations. The department felt that



pathogen tests should be conducted to ensure public safety. We wanted to assure the public that the compost was pathogen free by showing them an analytical test to prove it. After some discussion it was determined that the sustained temperature requirement of 55 degrees celsius for two weeks was sufficient to kill most if not all pathogens which would be present. The department concluded that these tests should be deleted from the proposed rules.

**Recommended Action:** Amend 105.9(2) by deleting the entire rule.

26. (2)(21) **Comment:** RE: 105.10; Why limit the storage of compost to 12 months?

**Response:** The department's intention was to discourage the stockpiling of compost. In some cases long term stockpiling can become final disposal, by limiting the storage time final disposal becomes an impossibility. The department believes one year should be a sufficient period of time to dispose of the finished compost.

**Recommended Action:** No change

27. (10)(21) **Comment:** RE: 105.12; The no rate limit on land application of yard waste compost is good, but this should also apply to solid waste compost. The rules should be amended by adopting EPA's clean sludge standard therefore allowing a no cumulative limit rate for solid waste compost.

**Response:** The metals limits were calculated using soil cation exchange limits and table 6-2 of the EPA Process Design Manual - Land Application of Municipal Sludge, document # EPA-625/1-83-016. The limits were calculated using the above mentioned criteria at an application rate of 30 ton/acre/year (the average application rate which produces a benefit as a soil amendment). The limits were based on the lower cation exchange capacities of soils in Iowa. The range of cation exchange capacities in Iowa soil is from below 5 to at least 15. The department has no way of knowing the cation exchange capacity of the soil on which the compost will be applied, therefore the metals limits will reflect the range of cation exchange capacities found in Iowa. The limits will be based on cumulative loading over a twenty year period at rates of thirty tons per acre per year. The EPA clean sludge rules are only proposed and are subject to change at any time, therefore the department does not believe this publication should be used as a reference. The department will review the EPA regulations when they are finalized and may amend these rules at that time.

**Recommended Action:** See comment 28 for action taken.

28. (4) **Comment:** RE: 105.12; We are requesting reconsideration of the metals limits set for copper and zinc. We would like to have the limits the same as in the low rate land application of municipal sewage sludge rules.

**Response:** The metal limits were calculated using the EPA Process Design Manual - Land Application of Municipal Sludge, document # EPA - 625/1-83-016. The metal limits were calculated using table 6-2 of the design manual using a cation exchange capacity (CEC) of < 5, and a compost application rate of 30 ton/acre/year. The department had concluded that a CEC of <5 for soils in Iowa is too restrictive. According to the state soil scientist soils in Iowa have a CEC range from 5 to above 15. The metals table will be changed to reflect this range of cation exchange capacities. The metals limits will be based on a 20 year application period at an application rate of 30 ton per acre per year.

**Recommended Action:** Amend 105.12 by changing the metals limits as follows:

Cumulative Limits  
Soil Cation Exchange Capacities

<u>Metal</u>	<u>&lt;5</u>	<u>5-15</u>	<u>&gt;15</u>
Cadmium (Cd)	4.4 lb/ac	8.9 lb/ac	17.8 lb/ac
Copper (Cu)	125 lb/ac	250 lb/ac	500 lb/ac
Lead (Pb)	500 lb/ac	1,000 lb/ac	2,000 lb/ac
Nickel (Ni)	125 lb/ac	250 lb/ac	500 lb/ac
Zinc (Zn)	250 lb/ac	500 lb/ac	1,000 lb/ac

29. (13)(22) **Comment:** RE: 105.13(3); The proposed rule changes to 567 chapter 121 "Land Application of Wastes" if adopted will limit the amount of uncomposted yard waste which can be land applied without a permit to 2 ton/acre/year, this is too restrictive. Composted yard waste can be applied at unlimited rates and composted solid waste can be applied at a rate of 30 ton/acre/year, the application rates should be made more consistent.

**Response:** The department is currently proposing rule changes to chapter 121. Yard waste application rates will be addressed in this rulemaking process, therefore yard waste application rates will be addressed in chapter 121. As it stands now under the proposed changes to chapter 121 the cities would be limited to 2 tons of yard waste per acre per year. The department believes that a yard waste application rate of 20 ton per acre per year is a reasonable rate. Application in excess of this amount may cause problems with future productivity of the ground. The previously referenced application rate in chapter 121 was 20 ton per acre per year.

**Recommended Action:** Amend 105.13(3) by adding a yard waste land application rate of 20 ton per acre per year.

30. (3)(5)(19)(22) **Comment:** RE: 105.13(4); Storage of uncomposted yard waste for only one week is too restrictive in times of inclement weather, two weeks is more reasonable.

**Response:** The department concurs

**Recommended Action:** Amend 105.13(4) by replacing with the following: "Yard waste can be stored for two weeks before it must be land applied."

31. (8)(9)(14)(17)(18) **Comment:** The referenced commentators did not make specific comments to the proposed rule, their comments stated general concerns pertaining to composting.

Mr. Stokes explained the rule and distributed the following two options for a possible language addition under 105.4(15):

1. 105.4(15) If the operation of the facility results in a discharge of wastewater or if a runoff control basin is required then the facility must obtain a sanitary disposal permit and is subject to the conditions in this chapter.

2. 105.4(15) If the facility includes a runoff control basin, then a sanitary disposal permit for the entire facility must be obtained. The provisions of this chapter must be met to obtain the permit.

Mr. Stokes asked for adoption of the rules with the inclusion of the first option in the suggested language addition. He related that it basically states that if a person is just going to compost yard waste and is not going to have any kind of a water retention basin, they do not need a paper permit, but they do have to meet the conditions set forth in the rules.

Chairperson Mohr expressed concern that all small towns may not be able to afford a truck to pick up yard waste, and she asked if residents could bring it to a collection point.

Mr. Stokes stated that a town could ask for a variance from the department, or they could go before the legislature and ask for a clarification on that issue.

Director Wilson commented that he believes the Commission could alter the rule to relax that requirement if a municipality is accomplishing what is intended for the environment.

Clark Yeager asked for clarification of the title on page 14, under 567--105.13(455B, 455D).

Mr. Stokes suggested adding the words "that has not been composted," so it would then read: Land application of yard waste that has not been composted. Commissioner Yeager agreed with this change.

Mr. Stokes explained sections of the rule that were renumbered.

Chairperson Mohr asked Mr. Tom Henderson if he would like to make any other comments on the rules.

Mr. Henderson stated that in regards to the issue on separate pick up, it is mandated by statute that if a municipality provides solid waste pick up they have to provide separate pick up for yard wastes. He indicated that his main concern is whether or not there will be any regulation of the number of composting facilities around the state. He indicated that there should be specifics in the rule as to which facilities are subject to the leachate collection pond requirements.

Mr. Stokes commented that the proposed language addition under 105.4(15) would require a facility to comply with the rules set forth in 105.5(12) setting specific requirements on size, type and construction, and this would take care of the leachability issue.

*Motion was made by Richard Hartsuck to approve Final Rule--Chapters 100, 104, and 105, Yard Waste Disposal and Composting Facilities with the inclusion of the proposed language addition option 1, to go under 105.4(15). Seconded by William Ehm.*

Rozanne King asked if it is strictly a legislative process to change the manner of collection systems.

Mr. Stokes replied that his interpretation is that it would require a legislative change.

Chairperson Mohr commented that the Commission could add a recommendation to the legislative packet regarding the collection system issue.

*Vote on Commissioner Hartsuck's motion carried unanimously.*

#### APPOINTMENT - KARLTON FULLENWORTH

Karlton Fullenworth addressed the Commission expressing concerns with IBP spreading sewage lagoon sludge on property adjacent to his farm. He expanded on reasons why they should not be allowed to apply municipal sludge in that area. He related that economics, cost and inconvenience are very poor excuses for contaminating our environment. Mr. Fullenworth urged the Commission to approve the proposed rules regarding land application of municipal sludge set forth by staff. He related that the rules should be implemented immediately to help stop further groundwater contamination.

#### APPOINTMENT - MARIE HORNECKER

Marie Hornecker, Lakeside, Iowa, presented an example of dangers which could and have happened as a result of existing regulations regarding sludge application. She circulated photos showing runoff on a back yard of a resident's acreage near the disposal site. She asked the Commission to support the following recommendations: 1) require a 48 hour incorporation on any land with a slope of 5% or greater; 2) require 48 hour incorporation if within 200 feet of a stream, lake or tile; and 3) keep 121.3(1)(h) dealing with general health aspects. In conclusion,

Ms. Hornecker stated that many of the objections to the recommended changes are based on cost savings for industry, but she feels incorporation to the soil on frozen or sloping land of 5% or greater slope is very necessary. She added that maintaining distances of 500 feet from wells and 200 feet from residences is a reasonable request to protect their health and the drinking water.

#### APPOINTMENT - EMMETT KING

Emmett King, former Mayor of Lakeside, stated that he strongly supports the five foot soil acceptance test. He stated that he is concerned with the constituents that escape the crop into the soil. He noted that with low water levels these constituents do not take long to migrate into the streams and lakes. Mr. King urged the Commission to support and pass the rules regulating land application of municipal sludge.

#### FINAL RULE--CHAPTERS 69 AND 121, LAND APPLICATION OF MUNICIPAL SEWAGE SLUDGE AND OTHER WASTES

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The commission has received copies of proposed changes to Chapter 69 and 121 which will combine land application procedures for municipal sewage sludge and other wastes.

The current rules in chapter 69 have been amended to change a specific subrule reference in chapter 121. The amended version will give a general reference to the entire chapter 121.

The new subrule 121.3(1) combines the previous rules for land application of municipal sewage sludge and other wastes.

The department conducted hearings in Des Moines, Iowa City, and Atlantic at which oral and written comments were presented. A summary of the public comments received and staff response to those comments is attached. The rules have been amended in response to public comment as follows:

567--121.3(1)(a)(3) has been amended to allow lower pH values dependent upon cadmium levels. Cadmium can become toxic to plants at lower pHs if the concentration is too high.

567--121.3(1)(a)(4) has been amended by deleting mandatory incorporation within 48 hours in all instances and retaining

existing language which requires incorporation only in specific instances.

567--121.3(1)(d) has been amended by deleting barium, cyanide, fluoride, phenol, and silver. According to recent EPA research these metals do not pose a problem in land application programs. The arsenic and selenium levels have been increased to reflect the change from a 20 ton/acre/year application rate to a 2 ton/acre/year rate.

567--121.3(1)(d) has been amended by basing sodium absorption on plant mortality.

567--121.3(1)(g) has been rescinded.

567--121.3(1)(j) has been rescinded.

567--121.3(1)(13) has been rescinded.

567--121.3(1)(14) has been amended to reference a specific sampling protocol and analytical method.

567--121.3(1)(n)(5) has been amended to require a 30 day waiting period after )and application of sludge on public access ground rather than 60 days.

The commission is asked to adopt this rule at this time.

(Rule and responsiveness summary is shown on the following 17 pages)

ENVIRONMENTAL PROTECTION COMMISSION [567]

Adopted Rule

Pursuant to the authority of Iowa Code section 455B.304, the Environmental Protection Commission gives Notice of Intended Action to amend 567--chapter 69 "On-site Wastewater Treatment and Disposal Systems," and chapter 121 "Land Application of Wastes," Iowa Administrative Code.

Notice of Intended Action was published in IAB, Vol. XII, No. 25 (6/13/90) p. 2263, ARC 969A.

The department held public hearings in Iowa City, Des Moines, and Atlantic. The department received oral and written comments to the proposed rule. The following changes were made in response to public comment:

Item 1. 567--121.3(1)a3 has been amended to allow for lower pH values based on cadmium levels.

567--121.3(1)a4 has been amended to require incorporation, depending upon slope and other factors.

567--121.3(1)d has been amended to change the sodium absorption ratio from a specific number to a level not threatening to plant life.

567--121.3(1)j has been rescinded.

567--121.3(1)k-o has been relettered.

567--121.3(1)k3 has been amended to reference a sampling procedure and analytical procedures.

567--121.3(1)m5 has been amended to require a 1 month rather than 2 month waiting period after sludge application on public access ground.

567--121.3(1)m has been amended by adding a forage crop requirement.

These rules become effective November 7, 1990.

The following amendments are adopted.

ITEM 1. Amend subrule 567--69.14(1) as follows:

c. Land application in accordance with the following requirements:

(1) Land application of stabilized septage shall be in accordance with ~~121.3(2)-of-these-rules:~~ Chapter 567--121. Iowa Administrative Code.

Item 2. Amend subrule 567--121.3 by deleting current 121.3(1) and 121.3(2). Replacing with the following:

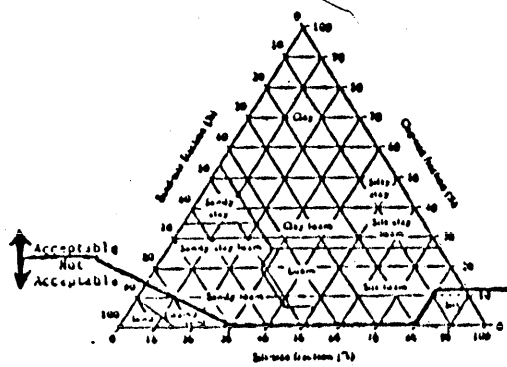
567--121.3(1)(455B)(455E) Municipal sewage sludge and other solid wastes. Municipal sewage sludge from a publicly owned treatment works and other solid wastes (other than petroleum contaminated soil) may be land applied without permit if the land application does not violate the facilities NPDES permit and the following:

a. Land application of municipal sewage sludge and other solid waste shall be conducted in accordance with the following criteria:

1. The maximum application rate shall not exceed two (2) tons per acre per year, measured on a dry weight basis. The maximum application rate shall be reduced if soil tests indicate to the director that a two (2) ton per acre per year rate would provide nutrient levels significantly in excess of crop nutrient requirements or would provide heavy metals concentrations in the soil at levels which may be detrimental to crop production or hazardous to human health.

2. The sludge or solid waste shall be applied only to soils classified as acceptable throughout the top five (5) feet of soil profile. The acceptability of a soil shall be determined using the following chart based on U.S.D.A. soil classifications.





U.S.D.A. textural classification chart, Sand size particles 2-0.05 mm, silt-size particles, 0.05-0.002 mm; and clay size particles; less than 0.002 mm.

3. Land application sites shall have soil pH maintained between 6.5 and 8.4 for sludges with cadmium levels up to 15 mg/kg. The soil pH may be maintained below 6.5 but not below 6.0 if the cadmium level is 8.0 mg/kg or the sludge has been stabilized to a pH of 10-12. If the soil pH is below these levels, it is acceptable to use agricultural lime to increase the pH to an acceptable level.

4. The department recommends that all sludge be injected on the contour or applied to the surface and mechanically incorporated into the soil as soon as possible but not later than 48 hours after application.

5. If the sludge is applied to land on which the soil loss exceeds the soil loss limits established by the county soil conservation district, the sludge shall be injected on the contour or shall be applied to the surface and mechanically incorporated into soil within 48 hours of application.

6. If the sludge is applied to land subject to flooding more frequently than once in ten years, the sludge shall be injected or shall be applied to the surface and mechanically incorporated into the soil within 48 hours. Information on which land is subject to flooding more frequently than once in ten years is available from the department.

7. If possible sludge application on frozen or snow covered ground should be avoided. If application on frozen or snow covered ground is necessary, it shall be limited to land areas of less than 5% slope.

8. If sludge is applied within 200 feet of a stream, lake, sinkhole or tile line surface intake located downgradient of the land application site, it shall be injected or applied to the surface and mechanically incorporated into the soil within 48 hours of application.

b. The waste shall not be land applied or made available for land application if the waste contains constituents in excess of the levels specified below.

<u>Constituents</u>	<u>Levels</u>
Arsenic (As)	<del>500</del> 50 mg/kg
Cadmium (Cd)	15 mg/kg
Copper (Cu)	1,000 mg/kg
Lead (Pb)	1,000 mg/kg
Mercury (Hg)	10 mg/kg
Nickel (Ni)	200 mg/kg
Selenium (Se)	34 mg/kg
Zinc (Zn)	2,000 mg/kg

If the waste has other toxic constituents, the toxic constituents shall not be in excess of levels where there is a threat to human, animal, or plant life as determined by the director.

c. Macro-nutrients.

(1) The application of nitrogen available from the waste and any other sources does not exceed the nitrogen needs of the vegetation to be grown on the site over the next year, and

(2) The total application of phosphorous and potassium does not exceed the acceptable agronomic application rates for the site and crops involved.

d. The waste does not have a sodium absorption ratio in excess of levels where there is a threat to plant life. If

high sodium absorption ratios are suspected, analytical testing may be required.

e. If land applying municipal sewage sludge, the sludge shall be treated to reduce pathogen content prior to land application. If land applying other types of wastes containing pathogens, the waste must be treated to reduce pathogen content by methods approved by the department prior to land application.

f. The waste does not contain a waste having direct process stream contact with the following listed organics: Petroleum products, organic solvents, pesticides, pharmaceuticals, polychlorinated by-phenyls (PCBs). The waste does not originate from a process which may release the previously mentioned compounds.

g. Assimilation capabilities. The waste would not be readily present in a visual analysis of a random sample collected two (2) years following application.

h. General public health aspects. The waste is *not* putrescible, or is incorporated (or otherwise managed) to prevent runoff and odor problems.

i. Separation distance. Waste shall not be applied within 200 feet of an occupied resident nor within 500 feet of a well.

j. Operating requirements. A generator who intends to dispose of its waste by land application shall:

(1) Analyze the waste to determine if any sources exist which may contribute significant quantities of potentially hazardous chemicals or other toxic substances. If any are found, the generator shall inform the department of their presence and shall analyze the waste for chemicals or substances in accordance with guidelines provided by the department.

(2) Sample and analyze the waste to determine whether it meets the criteria in 121.3(1).

(3) Unless rules for specific programs under USEPA or department authority provide otherwise, or unless other methods are approved by the department for a specific situation, samples taken and analyses made to document contamination under this chapter shall be conducted in accordance with the following:

a. Samples. "A Compendium of Superfund Field Operations Methods," USEPA, Office of Emergency and Remedial Response, Washington, D.C. 20460 (EPA/540/p-87/001, OSWER Directive 93.55.0-14).

b. Analyses. "Test Methods for Evaluation of Solid Waste, Physical - Chemical Methods (SW-846," USEPA, Third Edition, November 1986, as revised through December 1988. Until the department adopts rules regarding certification of laboratories, analyses shall be conducted at a laboratory that certifies to the department that the approved analytical procedure has been utilized, or a laboratory which has been approved under EPA's Contract Laboratory Program. Upon adoption of rules by the department regarding certification of laboratories, all analyses shall be made at a certified laboratory.

k. Land application program. All generators wishing to land apply their waste shall establish and maintain in writing a long range program for land application of its waste. This program shall be developed for a minimum period of five (5) years and shall be updated annually. A copy of this program shall be available at the facility for inspection by the department. As a minimum this program shall contain the following information in detail for the next calendar year and in general terms for the following

four (4) years. The plan shall include but not be limited to the following:

(1) An outline of the waste sampling schedule and procedures which will be followed to assure that the waste being applied to land continues to meet the criteria in 121.3(1).

(2) A determination of the amount of land required to allow disposal to be conducted in accordance with the requirements of 121.3(1).

(3) An identification of the land and waste application methods which will be used to dispose of the waste. Those areas and application methods shall be selected as necessary to assure that land application can be conducted in accordance with the land application criteria in 121.3(1).

(4) The names of the owners and operators of all land to be used for waste disposal, and identification of any legal arrangements made relative to use of these areas. The programs should also outline any restrictions or special conditions which exist regarding use of these areas for waste disposal.

(5) An overall schedule for the disposal of the waste. This schedule should indicate the areas being used, the time of year that disposal on each area will be conducted, and the proposed application rates for each area.

(6) A determination of the types and capacities of the equipment required to dispose of the waste in accordance with the developed disposal schedule. The program shall also outline how the required disposal equipment will be made available and who will be responsible for conducting land disposal operations.

(7) A determination of the volumes and types of storage and handling facilities required to allow waste disposal to be conducted in accordance with the waste disposal schedule.

The program shall also outline how any required additional waste storage or handling facilities will be provided.

(8) A plan to construct or obtain any additional waste storage, handling or disposal facilities or equipment which are required by the waste disposal program.

1. Other requirements.

(1) If the waste is being supplied to other persons for land application, the generating facility shall inform them of the applicable requirements of the waste disposal program, 101.3(2) and 121.3(1).

(2) If the generating facility determines that a person being supplied waste for land application is not complying with applicable requirements of the waste disposal program or the land application criteria, the generating facility shall attempt to work with them to obtain compliance with the requirements. If subsequent compliance cannot be achieved, the generating facility shall not supply additional waste to the person.

(3) The generating facility must inform all persons involved in waste disposal operations of the potential health hazards associated with waste disposal, including informing them of the cautions and recommended practices which should be followed to minimize these hazards.

(4) The generating facility shall maintain records of sample analysis and waste disposal operations.

(5) If waste is applied to land subject to use by the general public (e.g., golf courses, parks), public access to the waste application site shall be restricted for a period of 1 month after waste application. In no case shall waste be applied to areas where direct body contact with the soil is likely (e.g., school yards, playground areas, picnic areas).

(6) Waste shall not be applied to land for the commercial production of human consumption food crops.

(7) If sludge is applied to land where crops being grown will be grazed by or fed to livestock within two months of sludge application, or where cereal grains will be harvested within two months of sludge application, the sludge shall be injected or shall be applied to the surface and mechanically incorporated into the soil.

m. Notification. Before opening a disposal site the department shall be notified in writing of the location of the disposal operation. This notice shall also contain the legal description of the site, the landowner, the responsible official, the quantities and type of waste (including chemical analyses which the director may require to adequately define the waste).

Item 3. Rescind 567--121.3(3) and renumber existing rules.

These rules are intended to implement Iowa Code Supplement sections 455B.304, 455B.173, and 455E.9.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Larry J. Wilson, Director

(A:EP69.RUL/247-90/pg)

### Responsiveness Summary

This summary was prepared in response to formal written comments received by the department relating to the proposed rule changes to Chapter 121 "Land Application of Wastes." The comments were received on or before July 15, 1990.

#### **Commentors:**

- |   |                                  |
|---|----------------------------------|
| 1. Dennis White                                   | 21. Paul Nolan                   |
| 2. Lorna Eaton                                    | 22. Representative Russell Eddie |
| 3. Helen Dorn and Mr & Mrs<br>Robert Thayer       | 23. D. Rudy Mansfield            |
| 4. James Resnick                                  | 24. Ardith Plath                 |
| 5. Francis McAllister                             | 25. Lyle Krueger                 |
| 6. Marilyn Halterman                              | 26. Jane Dublinski               |
| 7. Mary Ellen Nichols                             | 27. Charles Pietscher            |
| 8. Thomas Hadden                                  | 28. Karlton Fullenworth          |
| 9. Craig Olson                                    | 29. Michael Wallner              |
| 10. Wallace Pale                                  | 30. Richard Jochum               |
| 11. Greg & Janelle Dahm                           | 31. Bryce Harthoorn              |
| 12. Robert Anderson, Jan<br>Anderson, Ted Clausen | 32. Glen Petersen                |
| 13. Mr & Mrs Earle                                | 33. Keith Kropf                  |
| 14. Frank Brunia                                  | 34. Curt Meiner                  |
| 15. Steven Stookey                                | 35. Mike Fields                  |
| 16. Robert Frederick                              | 36. Bruce Johansen               |
| 17. Thomas Neumann                                | 37. John Bellizzi                |
| 18. Robert Main                                   | 38. James McElvogue              |
| 19. Cheryl Darr                                   | 39. Iehl Family                  |
| 20. Melvin Rockwell                               | 40. Ardith Plath                 |
|   | 41. Ronald Barron                |
|   | 42. Don Freel, Lavene Payne      |
|   | 43. Ed Merschman                 |

1. (3)(7)(10)(11)(14)(24)(26)(39)(40) **Comment:** RE:567--121; Received general positive comments concerning the entire set of proposed rule changes.

2. (9) **Comment:** RE: 567--121.3(1); A statement allowing high rate sludge application permits should be added to this rule.

**Response:** 567--121.3 states that sludges unable to meet the criteria must obtain a permit before land application.

**Recommended Action:** No change



3.(16)(23)(30)(37) **Comment:** RE: 567--121.3(1)a1; The application rate of 2 dry tons per acre is too restrictive. The application rate should be based upon the type of sludge and the constituents which are present in the sludge. The addition of chemicals or additives to the sludge (ie. lime, polymer, etc.) should not count towards the total 2 ton per acre limit.

**Response:** The two ton limit is used for land application programs that do not obtain a permit from the department. If an increase in application rate is desired, a facility may obtain a permit for the increased application rate. The two ton limit according to the EPA reduces the possibility of runoff.

**Recommended Action:** No change

4.(21) **Comment:** RE: 567--121.3(1)a2; An Available Water Holding Capacity (AWHC) or permeability formula should be used rather than a soil texture classification. What is the justification for requiring the top five feet to be acceptable? Soil nutrients are taken up within the top two feet.

**Response:** In most cases the Available Water Holding Capacity and permeability formula is directly related to the soil texture, therefore the department's requirements are reasonable and consistent with the comment. The requirement for an acceptable top five feet allows an additional level of protection beyond the minimum two feet. There has been considerable concern about groundwater contamination resulting from land application of wastes, the extra three feet gives extra protection against any such contamination.

**Recommended Action:** No change

5.(17)(35) **Comment:** RE: 567--121.3(1)a3; The change to a pH maintained between 6.0 and 7.5 is a good change. This will allow application on land whose crops require a lower pH, such as nursery seedlings, forested areas, and non-traditional crops.

(21)(29)(37) The change to the pH is too restrictive for many areas of Iowa. The natural pH of many areas does not meet this criteria.

**Response:** The current rule allows for a pH of 6.5 and above. A benefit has been shown however for some crops at lower pH values of 6.0. Cadmium values may cause toxic affects at the lower pH, therefore the cadmium concentration must be monitored more closely. The higher pHs create problems with crop growth. According to the state soil scientist pHs of 7.9 and above can cause problems with plant growth. The department felt that a pH limit of 8.0 was too restrictive. According to the EPA Guide for Land Treatment of Sludge, pHs of 8.4 or higher are too alkaline for most crops and generally indicates high sodium content and permeability problems. The department believes the EPA criteria is a more reasonable for soils in Iowa.

**Recommended Action:** Amend 567--121.3(1)a3 as follows: Land application sites shall have soil pH maintained between 6.5 and 8.4 for sludges with cadmium values up to 15 mg/kg. The soil pH may be maintained below 6.5 but not below 6.0 if the cadmium level is 8.0 mg/kg or the sludge has been stabilized to a pH of 10-12. If the soil pH is below these levels, it is acceptable to use agricultural lime to increase the pH to an acceptable level.

6.(1)(5)(8)(12)(15)(16)(17)(18)(20)(21)(22)(23)(25)(27)(29)(30)(32)(33)(34)(35)(36)(37)(38)(41)(42)(43) **Comment:** RE: 567--121.3(1)a4; Incorporation of sludge into the soil within 48 hours of application is impossible. Sludge could not be land applied in the winter months therefore causing storage problems. Construction of storage facilities for municipalities would average \$500,000.

**Response:** The department concurs. Incorporation within 48 hours is a good goal to strive for but at this time this requirement would create hardship on many cities.

**Recommended Action:** Amend 567--121.3(1)a4 by replacing with the following:

4. The department recommends that all sludge be injected on the contour or applied to the surface and mechanically incorporated into the soil as soon as possible but not later than 48 hours after incorporation.

5. If the sludge is applied to land on which the soil loss exceeds the soil loss limits established by the county soil conservation district, the sludge shall be injected on the contour or shall be applied to the surface and mechanically incorporated into soil within 48 hours of application.

6. If the sludge is applied to land subject to flooding more frequently than once in ten years, the sludge shall be injected or shall be applied to the surface and mechanically incorporated into the soil within 48 hours. Information on which land is subject to flooding more frequently than once in ten years is available from the department.

7. If possible sludge application on frozen or snow covered ground should be avoided. If application on frozen or snow covered ground is necessary, it shall be limited to land areas of less than 5% slope.

8. If sludge is applied within 200 feet of a stream, lake, sinkhole or tile line surface intake located downgradient of the land application site, it shall be injected or applied to the surface and mechanically incorporated into the soil within 48 hours of application.

7.(4)(5)(9)(23)(27)(32)(35)(37)(38)(42)(43) **Comment:** RE: 567--121.3(1)b; The addition of Barium, Cyanide, Fluoride, Phenol, and Silver to the metal limitations is unwarranted. The Selenium limit is too restrictive.

**Response:** The department believes the addition of Barium, Cyanide, Fluoride, Phenol, and Silver is unjustified. The proposed metals table was based on prior rules. Little is

known about the inclusion of barium, cyanide, phenol, fluoride, and silver in that set of industrial criteria. Recent research has shown little justification for inclusion in the current rules. The Selenium limit will be changed to reflect the toxicity to animals when fed forage from land applied with sewage sludge.

**Recommended Action:** Amend 567--121.3(1)b as follows: Delete Barium, Cyanide, Fluoride, Phenol, and Silver from the metals limitations. Change the remaining metals limits as follows:

<u>Constituent</u>	<u>Levels</u>
Arsenic (As)	500 mg/kg
Cadmium (Cd)	15 mg/kg
Copper (Cu)	1,000 mg/kg
Lead (Pb)	1,000 mg/kg
Mercury (Hg)	10 mg/kg
Nickel (Ni)	200 mg/kg
Selenium (Se)	34 mg/kg
Zinc (Zn)	2000 mg/kg

8. (35)(37) **Comment:** RE: 567--121.3(1)c; The department received positive comments on this change.

9. (32)(42) **Comment:** RE: 567--121.3(1)d; What is a sodium absorption ratio?

**Response:** A sodium absorption ratio (SAR) is a calculation based on free sodium,

$$SAR = \sqrt{\frac{Na^{+}}{\frac{Ca^{2+} + Mg^{2+}}{2}}}$$

calcium, and magnesium ions. This calculation determines the quantity of exchangeable sodium ions in the soil. High sodium levels cause dispersion of soil particles, poor soil structure, and reduced filtration rates. The department believes this limit should be based on detriment to plant life.

**Recommended Action:** Amend 567--121.3(1)d as follows: The waste does not have a sodium absorption ratio (SAR) in excess of levels where there is a threat to plant life. If high sodium absorption ratios are suspected analytical testing may be required.

10. (31)(33) **Comment:** RE: 567--121.3(1)g; Any good industrial program addresses discharges to the municipality, and laboratory analyses verify the concentrations. This provision should be deleted from the proposed rules. If a waste meets the department's criteria for chemical composition its origin should be of no consequence.

**Response:** The department concurs.

**Recommended Action:** Amend 567--121.3(1)g by deleting the paragraph.

11. (17) **Comment:** RE: 567--121.3(1)i; The otherwise managed statement implies that something other than incorporation can be used. This directly contradicts mandatory incorporation proposed by 567--121.3(1)a4. It is questionable whether this section is needed since 567--121.3(1)e requires sludge stabilization and pathogen reduction.

**Response:** There are some wastes which are putrescible and do not necessarily have human pathogens such as paunch manure, yard waste, and food wastes, therefore this requirement is still needed to prevent runoff and odor problems. This proposed rule does apply to all sludges not just municipal wastewater sludges. The required incorporation subrule has been deleted by previous comments therefore no contradiction exists. The term nuisance is somewhat hard to determine this wording will be deleted.

**Recommended Action:** Amend 567--121.3(1)i by deleting the words nuisance aspects in the title.

12. (30)(32) **Comment:** RE: 567-121.3(1)j; What is a volatile constituent? Can nuisance condition be defined?

**Response:** A volatile constituent is one which will vaporize at a given temperature. A nuisance condition may exist if a waste has a sufficient quantity of volatiles to cause eye or throat irritation, and odor problems. Nuisance conditions are generally enforced through city or county ordinances. Nuisance condition is defined in 657 of the Code of Iowa. The department believes nuisance aspects are hard to enforce, therefore this paragraph will be deleted.

**Recommended Action:** Rescind 567--121.3(1)j

13. (2)(6)(13) **Comment:** RE: 567--121.3(1)k; The separation distances should be increased to 500 feet from an occupied residence, 750 feet from a private well, and 1250 feet from a municipal well.

**(17)(30) Comment:** The separation distance of 500 feet from a well is too restrictive. Agricultural chemicals can be applied up to 200 feet from a municipal well, but sludge cannot?

**Response:** The department believes the separation distance of 200 feet from an occupied residence and 500 feet from a well is adequate to ensure environmental quality. The department is not convinced that the 200 feet separation distance for agricultural chemical application from a well is a adequate distance. This will be addressed in another rule change in the future.

**Recommended Action:** No change

**14. (30) Comment:** RE: 567--121.3(1)11; The language is too vague and should be changed allowing the director authority to request analysis if deemed necessary.

**Response:** The department believes waste generators should be aware of all constituents in their waste streams. This requirement mandates waste stream constituent knowledge. The department believes this knowledge is imperative to ensure proper waste disposal.

**Recommended Action:** No change

**15. (30) Comment:** RE: 567--121.3(1)13; The department should replace the requirement with a sampling protocol.

**Response:** The department concurs.

**Recommended Action:** Amend 567--121.3(1)13 by deleting rule which dealt with collection and preservation of sample. This action will be reflected in comment 15.

**16. (30) Comment:** RE: 567--121.3(1)14; Delete the requirement that UHL approve the laboratory.

**Response:** The department has no justification at this time for this requirement, therefore the subparagraph will be amended. The department plans on proposing rules for certification of laboratories in the future. When those rules become final all laboratories must be certified to comply with this rule. The subparagraph amendments will be consistent with 567 chapter 133 requirements for sampling and analysis.

**Recommended Action:** Amend 567--121.3(1)14 as follows: Renumber as 121.3(1)13. Unless rules for specific programs under USEPA or department authority provide otherwise, or unless other methods are approved by the department for a specific situation, samples taken and analyses made to document contamination under this chapter shall be conducted in accordance with the following:

a. Samples. "A Compendium of Superfund Field Operations Methods," USEPA, Office of Emergency and Remedial Response, Washington, D.C. 20460 (EPA/540/p-87/001, OSWER Directive 93.55.0-14).

b. Analyses. "Test Methods for Evaluation of Solid Waste, Physical - Chemical Methods (SW-846)," USEPA, Third Edition, November 1986, as revised through December 1988. Until the department adopts rules regarding certification of laboratories, analyses shall be conducted at a laboratory that certifies to the department that the approved analytical procedure has been utilized, or a laboratory which has been approved under EPA's Contract Laboratory Program. Upon adoption of rules by the department regarding certification of laboratories, all analyses shall be made at a certified laboratory.

17. (30) **Comment:** RE:567--121.3(1)m; This requirement is an unnecessary burden on sludge generators. Many variables restrict this plan and will make the plan unrealistic.

**Response:** The department believes that waste management is a long term planning process. The department also believes that a five year land application plan is not an unreasonable requirement. The plan is updated annually and may be changed as needed. The plan is retained at the generating facility so accessibility for changes should be no problem. Therefore, when variables change the plan can reflect the changes without too much difficulty.

**Recommended Action:** No change

18. (17) **Comment:** RE: 567--121.3(1)n5; The sixty day waiting period on sludge applied public ground is excessive since the sludge must be stabilized. A 30-day restriction is more reasonable. A provision should be added requiring a 48-hour waiting period on land injected with sludge.

**Response:** The department believes a thirty day waiting period is a reasonable period of time to restrict access on public use property. The sludge is required by rule to be stabilized, therefore the ability to contract pathogens from the sludge has been greatly reduced prior to application.

**Recommended Action:** Amend 567--121.3(1)n5 by changing the 60 day waiting period to 30 days.

19. (37) **Comment:** RE: 567--121.3(1)n6; The limitations of not being able to apply to crops used for human consumption is unreasonable and unjustified given that the purpose of the proposed EPA rules are all based on the assumption that the sludge will be applied to human consumptive crops and the IDNR rules for metals are more restrictive.

**Response:** Metals are not the only concern. The department believes pathogens also can

pose a problem if applied to human consumptive crops.

**Recommended Action:** No change.

20. (37) **Comment:** RE: 567--121; An additional area needs to be added to the rule. At some point the sludge is processed to the point and clean enough to be no longer considered a sludge. Land application of material able to meet the "clean residuals" definition is left to the discretion of the generator.

**Response:** This comment is based on proposed EPA rules. These rules are subject to change at any given moment. When the EPA rules become reality, the department will review the criteria and amend departmental rules as needed.

**Recommended Action:** No change.

21. (19) **Comment:** Livestock should not be allowed to graze on sludge applied crops for sixty days after application. The sludge constituents can be toxic to the animals.

**Response:** The department does not require livestock producers to accept sludge. It is the producers decision. The department believes that the producer should also decide when it safe for their animals to graze on their sludge applied land.

**Recommended Action:** No change.

22. (19) **Comment:** Notice of application should be provided to the neighboring sites within a 1/4 mile radius at least one week prior to application. Thus allowing children and pets to be restricted from that area at that time.

**Response:** Prior notification serves no purpose because the nature of the rule is to protect the environment and public. Prior notification would put undo hardship on the sludge generators.

**Recommended Action:** No change.

23. (19) **Comment:** There should be a minimum separation distance from property lines. This would eliminate overspray onto adjacent property.

**Response:** The waste should be managed so that none leaves the property line of the property where it is applied. If this happens the land owner adjacent to the sludge application area should contact the field office in their area of the state and request an inspection of the site.

**Recommended Action:** No change.

Mr. Stokes explained the rule and noted a correction to page 5, under "h" - the word "not" should be added to the end of the first line. It would then read: The waste is not putrescible, or is incorporated (or otherwise managed) to prevent runoff and odor problems.

He addressed concerns brought up earlier in the meeting by individuals addressing the Commission.

Mr. Stokes explained that Arsenic and Selenium were raised by a factor of ten because the land application rate was reduced by a factor of ten. The application rates were reduced from 20 ton/acre down to 2 ton/acre which offset each other.

Mike Earley stated that there was a request from an individual to comment on the Arsenic level.

Cheryl Darr stated that the Arsenic level under 121.3 (1)(a) is actually 50, which is two tons/acre. She added that the industrial rate is the one that is larger, so it has been increased by ten from what it was previously. She asked if the intention was to change it opposite of what is shown in the rule.

Mr. Stokes responded that Ms. Darr was correct and the Arsenic level shown on page 4 should be 50 mg/kg rather than 500 mg/kg.

Lengthy discussion followed regarding who should be responsible for any infractions which may occur in regards to land application, storage, etc.; whether land application could take place on CRP ground; notification of application to adjoining landowners; and the degree of slope where application can be made.

Gary Priebe asked that staff study the issue of generator/applicator degree of responsibility and perhaps change the rule at a later date.

Motion was made by Clark Yeager to amend the rule to restrict sludge application on any ground greater than 9% slope, except on frozen ground which cannot exceed 5% slope. Seconded by Gary Priebe. Motion carried unanimously.

Motion was made by Mike Earley to amend the rule to incorporate that a Notice of Application shall be provided by the generator/applicator within 30 days of application, by means of local newspaper, to neighboring sites within a quarter mile radius. Seconded by William Ehm.

Chairperson Mohr requested a roll call vote. "Aye" vote was cast by Commissioners Earley, Ehm, and King. "Nay" vote was cast by Commissioners Hartsuck, Priebe, Yeager, and Mohr. Motion failed on a vote of 3-Aye to 4-Nay.



Motion was made by William Ehm to approve Final Rule--Chapters 69 and 121, Land Application of Municipal Sewage Sludge and Other Wastes as amended, including Al Stokes' requested correction on page 5, under 121.3(1)h and the change of the Arsenic level on page 4. Seconded by Mike Earley. Motion carried unanimously.

CONTESTED CASE APPEAL/ROBERT COPPINGER AND VELMA NEHMAN

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

On August 16, 1989, the department denied the application for 401 certification filed by Robert Coppinger and Velma Nehman, in relation to a proposed channel change. On December 4, 1989, the department denied their application for a flood plain permit for the proposed project. Those denials were appealed and the matter proceeded to administrative hearing on May 2 and 3, 1990. The Administrative Law Judge issued the Proposed Findings of Fact, Conclusions of Law, and Order on May 17, 1990. The decision affirms the department's denials.

Mr. Coppinger and Ms. Nehman have appealed this order to the Commission. The Proposed Decision, and pertinent documents have been distributed to the Commissioners. The entire record, including hearing tapes and exhibits are available for your review. The parties will be available to argue their respective positions and respond to your questions. You may then affirm the Proposed Decision, or modify or reverse it, substituting your own findings of fact and conclusions of law based on your conclusions from your review of the record and legal argument.

Mr. Murphy stated this case involves the denial of a flood plain permit as well as the 401 Certification in connection with it. He briefed the Commission on the history of this case.

APPOINTMENT - WILLIAM KURTH (Coppinger & Nehman Appeal)

William Kurth, representative for Robert Coppinger and Velma Nehman, displayed a map of the area involved and pointed out specific landowners for each area. He presented a history of flooding and damages caused to his clients property, allegedly, as a result of Tommy Lennon building a levee to dam Lizard Creek. Mr. Kurth related that, because of damage to his clients property, they hired a professional engineer, and the engineer suggested a channel change of their own which would cut out 1100 feet of Lizard Creek. The permit application was denied because the Fish & Wildlife Division stated that the channel change would lose 1100 feet of smallmouth bass spawning area and it would not

allow any mitigation. Mr. Kurth noted that his clients already lost 3 acres of land due to flooding and could lose an additional 8 acres if they are not allowed to make a channel change. He stated that in 1987, the Clean Water Act mitigation policies would have allowed an applicant to see how mitigation provisions would have been implemented and enforced, but DNR did not adopt them into their rules and therefore they felt they could ignore them. Mr. Kurth related that the US F & W Service said they could mitigate this as category three, not category two, and his clients should have been allowed to have out-of-kind mitigation. He stated that his clients cannot understand how Mr. Lennon's channel change was minor in scope and why theirs is such a great degree that they cannot even mitigate and have a channel change as requested. Mr. Kurth asked the Commission to overrule the hearing officer and approve his clients application.

Discussion followed regarding the status of the Lennon case.

Randall Clark, Legal Services Bureau, stated that none of the people that are involved in this particular decision on this flood plain application were a part of the decision that was made back in 1984 when a former employee ruled that the main issue was degradation of Mr. Lennon's levee, and the channel change was minor in scope. Mr. Clark stated that the Coppinger/Nehman application has to be looked at based on the current criteria. None of the variance provisions allow staff to consider that someone else did something downstream that might have caused problems upstream. He added that the evidence is not one-sided on the issue that the downstream activity caused the upstream problems. The appellants engineer did not do a hydrologic evaluation to determine the cause of the upstream problem. Mr. Clark pointed out that the reason for denial of the permit was spelled out to Mr. Kurth in several letters prior to the hearing; those reasons being F & W Division concerns. He added that the F & W Division proposed an alternative channel change and it was turned down by the appellants. Mr. Clark stated that Martin Konrad, Fish & Wildlife Division, testified that he did not agree with U.S. F & W Service assessment of this project as a Category 3 project allowing in-kind mitigation. He added that if the criteria urged by the appellant was applied, Mr. Konrad would put the project in Category 2 where in-kind mitigation is not allowed.

Chairperson Mohr commented that when one landowner does a stream straightening in an area where water is going, it is bound to push some water off on to the neighbors.

Mr. Clark commented that the question is, do we allow another channel change which doesn't meet criteria because of the feeling that the criteria was violated in some previous case. He added that type of reasoning would allow channel changes all the way upstream which violate criteria because of one initial violation.

Clark Yeager asked if the Commission could overrule the F&W Division decision.

Mr. Clark stated that, in his opinion, the Commission is bound by the department's rules the same as staff, and unless the Commission changes the rules those rules have the effect of the law.

Mr. Kurth commented that the department usurped the U.S. F & W Service rules by deciding they wanted to look at each case individually rather than allowing the nationwide permit.

Martin Konrad, Fisheries Specialist, Fish & Wildlife Division, explained that in this proposal there would be significant impacts to spawning and nursery habitat available to smallmouth bass. Smallmouth bass travel up Lizard Creek for spawning in the spring and that area of the state is considered to have a very limited type of habitat available for smallmouth bass. Fisheries biologists feel it is a limited resource and one that should be protected, thus the reason for denial of the applicants proposal. Mr. Konrad noted that an alternative channel change was offered to minimize impacts, reduce the amount of channel change, and provide 20 foot buffer strips on each side. He related that the applicants did not like the alternative.

A lengthy discussion of the issues took place.

*Motion was made by Richard Hartsuck to uphold the decision of the Administrative Law Judge. Seconded by Mike Earley.*

Discussion followed regarding the state's 401 permit authority.

Mr. Clark commented that he is not sure this channel change would fall under the nationwide permit provisions, and nothing of this nature was raised before the Administrative Law Judge. He noted that the 401 certification was one issue, but the issue of a nationwide permit and how that allegedly infringed on the appellants rights was not raised. In addition, irrespective of the 401 certification, a flood plain permit is required, and the Fish and Wildlife Division determination has to be applied in that permit decision, under our rules.

Discussion followed.

*Chairperson Mohr requested a roll call vote. "Aye" vote was cast by Commissioners Earley, Ehm, Hartsuck, and King. "Nay" vote was cast by Commissioners Priebe, Yeager, and Mohr. Motion failed due to a lack of concurrence of a majority of the Commission on a vote of 4-Aye to 3-Nay.*

Mr. Combs explained that if the Commission chooses to change the Administrative Law Judge's decision they need to state their Findings of Fact and Law as to why they are making that change and pass a motion to that effect. He also covered the procedure

for the Commission to follow if they wish to appoint a subcommittee to review the case.

Chairperson Mohr indicated that, prior to adjournment of the meeting, she will appoint a committee to review this case and bring it back before the Commission within 90 days.

CONTESTED CASE APPEAL--IBP, inc.

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

On September 2, 1988, the department issued Administrative Order 88-WW-30 to IBP, inc. That action directed IBP to cease operation of unpermitted waste disposal facilities, to conduct soil and groundwater studies, and to pay a \$600.00 penalty. That action was appealed and the matter proceeded to administrative hearing on April 25, 1990. The Administrative Law Judge issued the Proposed Findings of Fact, Conclusions of Law, and Order on June 26, 1990. The decision affirms the Department's Order.

IBP, inc. has appealed this order to the Commission. The Proposed Decision, and pertinent documents have been distributed to the Commissioners. The entire record, including hearing tapes and exhibits are available for your review. The parties will be available to argue their respective positions and respond to your questions. You may then affirm the Proposed Decision, or modify or reverse it, substituting your own findings of fact and conclusions of law based on your conclusions from your review of the record and legal argument.

Mr. Murphy briefed the Commission on this case and related that counsel for IBP, inc. is present to address the Commission.

APPOINTMENT - RICHARD JOCHUM (IBP, inc.)

Richard Jochum, representative for IBP of Dakota City, Nebraska, stated that there is very little factual dispute involved. He added that the DNR and the Administrative Law Judge have misapplied the statutes to the facts as they were established. He gave reasons for his objections to the Findings of Fact and related that he is asking the Commission to look at each of the five Conclusions of Law in the Administrative Order and the proposed decision of the Administrative Law Judge, and to reverse that decision.

Discussion followed.

Motion was made by Mike Earley to uphold the decision of the Administrative Law Judge. Seconded by William Ehm. Motion carried unanimously.

COMMISSIONER TEMPORARILY ABSENT

Commissioner Priebe left the meeting at this point for the remainder of the day.

CONTESTED CASE APPEAL--LOUISA COURTS WATER SUPPLY

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

On February 15, 1990, the department issued Administrative Order 90-WS-20 to Louisa Courts Water Supply. That action required Louisa Courts to provide a bacterially safe water supply, to perform required bacteria and nitrate monitoring, and to pay a \$400 penalty. That action was appealed and the matter proceeded to administrative hearing on June 15, 1990. The Administrative Law Judge issued the Proposed Findings of Fact, Conclusions of Law, and Order on July 12, 1990. The decision affirms the Department's Order, with the exception of rescinding the penalty.

Louisa Courts has appealed this order to the Commission. The Proposed Decision, and pertinent documents have been distributed to the Commissioners. The entire record, including hearing tapes and exhibits are available for your review. The parties will be available to argue their respective positions and respond to your questions. You may then affirm the Proposed Decision, or modify or reverse it, substituting your own findings of fact and conclusions of law based on your conclusions from your review of the record and legal argument.

Mr. Murphy stated that this case involves an Administrative Order issued to the facility regarding its drinking water supply. The Administrative Law Judge upheld those portions of the Order directing compliance with departmental rules and taking the measures to provide a bacterially safe drinking water supply, but reversed the penalty portion of the Order. Mr. Murphy noted that one of the issues is statements made in the Notice of Appeal regarding factual matters that were not reflected in the record. He emphasized that all parties are restricted to the record made at the hearing and additional factual matters should not be considered at this time. Mr. Murphy stated that the Hinkhouse's are present to make a statement to the Commission.

APPOINTMENT - SHIRLEY HINKHOUSE

Shirley Hinkhouse, owner of Louisa Courts, Muscatine, Iowa, stated that the DNR has charged them with MCL violations for unsatisfactory water samples in June and July, 1989, along with the failure to take a nitrate sample in September 1989. She related that the department has ordered them to install continuous chlorination equipment. She stated that she received several letters from the department notifying of the violations and stating that someone from the field staff would assist them with taking their samples. Mrs. Hinkhouse related that the last paragraph in each letter stated that if they required any assistance or had any questions, to call the office directly. She indicated that they waited several months and after no one from DNR came to help them, she called the district office. Two representatives came out and inspected but did not help with determining the cause of contamination. She presented a history covering correspondence received from the department, when and how they (Hinkhouse's) did sampling and problems they encountered. She related they later discovered that the problems during the Summer of 1989 were due to a pump her husband installed at that time. In conclusion, Mrs. Hinkhouse stated that their water is safe now and is being monitored monthly, and they are requesting that the penalty stay reversed and are appealing the requirement to install a chlorinator.

Diana Hanson, Legal Services Bureau, commented that the violations were not isolated events since there were three violations within a 12 month period. She noted that the Field Office 6 inspection report does not state for certain whether or not unsatisfactory samples were due to improper sampling techniques. She expanded on several other points. Ms. Hanson stated that staff feels that there is justification to require the installation of continuous chlorination equipment on the well. Staff is also asking that the Commission review the penalty assessment in view of the number of MCL violations.

A lengthy discussion of the issues followed.

*Motion was made by William Ehm to uphold the decision of the Administrative Law Judge. Seconded by Mike Earley.*

*Chairperson Mohr requested a roll call vote. "Aye" vote was cast by Commissioners Earley, Ehm and Hartsuck. "Nay" vote was cast by Commissioners King, Yeager and Mohr. Motion failed on a vote of 3-Aye to 3-Nay.*

Mr. Combs informed the Commission that if they wish to change the findings of the Administrative Law Judge they will need to state where the Findings of Fact were wrong.

Discussion followed.

Rozanne King commented that the letter from staff did not address well enough what to do, and if it is a form letter perhaps it should be reworked. She added that if there is a rule or policy to require chlorination with one violation, it should be stated in the letter.

Richard Hartsuck stated that there is a working rule of thumb which is no more stringent than the law, it is basically good and does not zap people on a first instance and yet does a reasonable job of protecting the health of the public, which is one of the responsibilities of the Commission.

After further discussion of various issues in the case, Chairperson Mohr stated that she will appoint a committee to review the case and bring it back before the Commission within 90 to 120 days. Appointments to the committee will be done before adjournment of the meeting.

#### RECESS

Chairperson Mohr recessed the meeting at 5:50 p.m., Monday, September 17, 1990.

#### MEETING RECONVENES 8:30 A.M., TUESDAY, SEPTEMBER 18, 1990

#### PROPOSED RULE--CHAPTER 102, FINANCIAL ASSURANCE MECHANISM FOR CLOSURE AND POSTCLOSURE COSTS AT SANITARY DISPOSAL PROJECTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

In 1987 the legislature amended 455B and required operators of sanitary disposal projects to have financial assurance instruments for closure and postclosure costs. It is proposed that Chapter 102 be amended by adding new subrules 567--102.15 and 567--102.16.

Subrule 102.15 requires financial assurance for closure and postclosure costs. Proof of financial assurance must be submitted to the Department prior to issuance and renewal of a Sanitary Disposal Project Permit. Cost estimates for closure and postclosure shall be submitted in writing to the department. Yearly updates to cost estimates will be required during the operating life of the sanitary disposal project.

An annual financial statement must be submitted to the Department. This statement will include: current balances in the closure and postclosure accounts, total assets, total liabilities, and projected amounts to be deposited into the closure and postclosure accounts.

Financial assurance can be established through use of one financial assurance mechanism or multiple mechanisms. One financial assurance mechanism can be used for multiple facilities.

A financial assurance mechanism may be terminated if an alternate mechanism is substituted, or if the owner is released by the Department from closure and postclosure costs.

567--102.16 explains the types of financial assurance mechanisms allowed for closure and postclosure costs. The mechanisms are limited to: trust funds, surety bonds, letters of credit, and self-insurance.

The Commission will be asked to approve a Notice of Intended Action at their October meeting.

(Proposed rule is shown on the following 13 pages)



ENVIRONMENTAL PROTECTION COMMISSION [567]  
Notice of Intended Action

Pursuant to Iowa Code 455B.304, the Environmental Protection Commission proposes to adopt amendments to 567--Chapter 102 "Permits."

In 1987, the Iowa Legislature amended Chapter 455B and required operators of sanitary disposal projects to have financial assurance instruments. In accordance with 455B.306, "a person operating or proposing to operate a sanitary disposal project shall provide a financial assurance instrument to the department prior to initial approval of a permit or renewal of a permit for an existing or expanding facility beginning July 1, 1988." As a result of the amendments which established financial assurance instruments, the existing rules in 567--102 must be expanded to identify acceptable financial instruments.

The rules, as amended, will be implemented upon adoption.

The amendments may economically impact small businesses.

Any interested party may file with the director written comments on the proposed amendments through November 15, 1990. Interested persons may also provide oral comments at public hearings to be held on

The following amendments are proposed:

Item 1 applies to financial assurance instruments;

---

ITEM 1. Amend Chapter 102 by adding the following new rules 567--102.15(455B) and 567--102.16:

567--102.15(455B) Financial assurance for closure and postclosure care. The owner or operator of a sanitary disposal project shall establish financial assurance using one of the financial assurance mechanisms in rule 102.16 for closure and postclosure care to ensure compliance with the approved closure and postclosure plans of the facility and Chapters 102, 103, 104, 105 and 106.

102.15(1) Compliance with financial assurance.

a. An owner or operator proposing to operate or operating a sanitary disposal project shall submit an originally signed duplicate of the financial assurance instrument(s) prior to the initial approval of a permit or prior to renewal of a permit for an existing or expanding facility.

b. An owner or operator of an existing sanitary disposal project shall submit an originally signed duplicate of the financial assurance instrument(s) for closure and postclosure care to the director within one year of the effective date of this rule.

102.15(2) Cost estimates for closure and postclosure.

a. The owner or operator shall make a written estimate, in current dollars, of the cost of closing the facility in accordance with subrules 102.12(10), 102.13(8), the closure plan required in 103.2(3). The closure cost estimate must equal the cost of closure at the point in the facilities life when the extent and manner of its operation would make closure most expensive, as indicated by its closure plan.

b. The owner and operator of a facility subject to postclosure monitoring or maintenance requirements shall make a written estimate, in current dollars, of its annual cost of postclosure monitoring and maintenance of the facility in accordance with postclosure requirements in subrule 103.2(4) and the postclosure plan required in 102.12(10). The owner or operator must

calculate the postclosure cost by multiplying the annual postclosure cost estimate by the number of years of postclosure care required under subrule 103.2(4). The postclosure cost estimate must be adjusted for inflation expected to occur after site closure.

102.15(3) Yearly update of cost estimate. During the operating life of the facility, the owner or operator shall adjust the annual cost estimates required in subrule 102.15(1) for inflation and whenever changes in the closure or postclosure plans affects the cost estimates within 30 days after each anniversary of the date on which the first cost estimates were prepared. The inflation adjustments must be made using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as found in the Survey of Current Business issued by the United States Department of Commerce. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year. The adjustments are made by multiplying the current cost estimate by the latest inflation factor.

102.15(4) Annual financial statement. An annual financial statement prepared by an independent certified public accountant will be submitted to the department in accordance with 455B.306(4)c and (5)e. The statement will include the current amounts established in each of the closure and postclosure accounts listed in 102.16, total assets including operating income, total liabilities including operating expenses, and projected amounts to be deposited in the accounts in the following year.

102.15(5) Record retention. The owner and operator shall keep at the facility during the operating life of the facility: the latest cost estimates prepared in accordance with subrule 102.15(2) and, when the estimates have been adjusted in accordance with subrule 102.15(3), the latest adjusted cost estimates.

102.15(6) Use of multiple financial mechanisms. An owner or operator may satisfy the requirements of rule 102.15 by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, and self-insurance. The mechanisms must be specified in subrules 102.16(1), (3), (5) and (6), respectively, of this rule, except that it is a combination of mechanisms rather than the single mechanism which must provide financial assurance for an amount at least equal to the sum of the current cost estimates. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The director may use any or all mechanisms to provide for closure of the facility.

102.15(7) Use of financial assurance mechanism for multiple facilities. An owner or operator may use a financial assurance mechanism specified in this rule to meet the requirements of rule 102.15. Evidence of financial assurance submitted to the director must include a list showing, for each facility, the permit number, name, address, and the amount of funds for closure or postclosure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing the funds available through the mechanism for closure or postclosure at any of the facilities covered by the mechanism, the director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

102.15(8) Termination of a financial assurance mechanism. The director shall agree to the termination of a financial assurance mechanism when:

a. An owner or operator substitutes alternate financial assurance as specified in rule 102.15; or

b. The department releases the owner or operator from the requirements of this rule in accordance with subrule 102.15(8).

102.15(9) Release of owner or operator from the financial requirements.

a. Release from closure requirements. Within 90 days after receiving certifications from the owner or operator and a registered engineer in Iowa that the closure has been accomplished in accordance with the closure plan, permit, and rules, the department shall notify the owner or operator in writing that he or she is no longer required by rule 102.15 to maintain financial assurance for closure of the particular facility, unless the agency has reason to believe that closure has not been accomplished in accordance with the closure plan.

b. Release from postclosure requirements. When an owner or operator has completed to the satisfaction of the department, all postclosure care requirements in accordance with the postclosure plan, the permit, and the rules, the department will, at the request of the owner or operator, notify the owner or operator in writing that he or she is no longer required by this rule to maintain financial assurance for postclosure care of the particular facility, unless the department has reason to believe that postclosure care has not been accomplished in accordance with the postclosure care plan.

102.15(10) Incapacity of owners or operators, guarantors, or financial institutions.

a. Notification of bankruptcy. An owner or operator shall notify the director by certified mail of the commencement of a voluntary or involuntary bankruptcy proceeding naming the owner or operator as a debtor, within ten days after commencement of the proceeding.

b. Incapacity of financial institutions. An owner or operator who fulfills the requirements of rule 102.15 by obtaining a trust fund, surety bond, or letter of credit will be considered to be without the required financial assurance in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee or the institution issuing the bond or letter of credit. The owner or operator shall establish other financial assurance within 60 days after such an event.

102.15(11) Allocation of current account balances.

a. Money in the accounts shall not be assigned for the benefit of creditors with the exception of the state.

b. Money in an account shall not be used to pay any final judgment against a licensee arising out of the ownership or operation of the site during its active life or after closure.

567-102.16(455B) Financial assurance mechanisms. Financial assurance for closure and postclosure care shall use one or more of the following financial assurance mechanisms.

102.16(1) Trust fund.

a. An owner or operator may satisfy the requirements of financial assurance by establishing a trust fund which conforms to the requirements of this subrule and submitting an originally signed duplicate of the trust agreement to the director. The trustee shall be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or Iowa state agency.

b. The wording of the trust agreement must be identical to the wording specified in the trust form supplied by the department and must be accompanied by a formal certification of acknowledgement. The trust

agreement must be updated within 60 days after a change in the amount of the current cost estimates covered by the agreement.

c. The owner or operator must make monthly payments into the trust fund over the term of the operating life of the site. The payments into the trust fund must be made as follows:

(1) For a new facility, the first payment must be made before the initial receipt of solid waste. The owner or operator must submit to the director a receipt from the trustee for the first payment before the initial receipt of waste. The first payment must be at least equal to the sum of the current cost estimates divided by the number of years in the operating life of the site and twelve (12). Subsequent payments must be made no later than the fifteenth (15th) day of the following month. The amount of each subsequent payment per ton of waste received must be determined by this formula:

$$\text{payment per ton} = \frac{\text{CE} - \text{CV}}{\text{Y} \times \text{WT}}$$

where "CE" is the sum of the current cost estimates, "CV" is the current value in the trust fund, "Y" is the number of years remaining in the operating life of the site and "WT" is the previous year's tonnage of solid waste.

(2) For an existing facility, the first payment must be made upon renewal of the sanitary disposal project permit. The owner or operator must submit to the director a receipt from the trustee for this payment within ten days after payment is made. The first payment must be at least equal to the sum of the current cost estimates divided by the number of years remaining in the operating life of the site and twelve (12). Subsequent payments must be made no later than the 15th day of the following month. The amount of each subsequent payment must be determined by formula in subparagraph (c)(1) of this subrule.

(3) The pay-in amount for an existing facility need not exceed the previous year's tipping fee. If the owner or operator does not charge a tipping fee or uses more than one source of revenue for the facility, then the pay-in amount per ton need not exceed the previous year's gross revenues divided by the previous year's waste tonnage. The pay-in amount will increase annually until it meets the payment as calculated in subparagraph (1). The owner or operator must receive prior approval from the department before using this pay-in method. This method cannot be used if the estimated closure and postclosure costs cannot be met within the remaining site life.

(4) The owner or operator must make annual revisions of the estimated operating life of the site. The revisions must be made no later than the anniversary date of the first payment into the trust fund.

(5) The owner or operator of an existing facility may request a different pay-in schedule than required in subparagraphs (2) and (3) if the facility will not be able to meet the required payments. The proposed pay-in schedule must be able to meet the current cost estimates for closure and postclosure within the remaining operating life of the site. Supporting documentation must at least include:

- (a) Balance sheets and income statements for the past three years;
- (b) Current measurements and future estimates of waste flow into the facility;
- (c) Future operating income and expense for at least ten years;
- (d) Any other information that the owner or operator believes relevant.

d. The owner or operator may accelerate payments into the trust fund or may deposit the full amount of the sum of the current estimates at the time the fund was established. However, the owner or operator must maintain the

value of the fund at no less than the value that the fund would have if monthly payments were made as specified in paragraph (c) of this subrule.

e. If the owner or operator establishes a trust fund after having used one or more alternate financial assurance mechanisms specified in rule 102.16 of this chapter, the first payment into the trust fund must be equal to at least the amount that the fund would contain if the trust fund were established initially and the monthly payments made according to specifications of this subrule.

f. If the sum of the current cost estimates changes, the owner or operator shall compare the new estimates with the trustee's most recent monthly valuation of the trust fund. If the value of the fund is less than the amount of the new estimates, the owner or operator, within sixty (60) days after the change in the cost-estimates, shall either change the trust fund pay-in schedule so that it incorporates the changes in the sum of the current cost estimates, and submit evidence of this change to the director, or establish other financial assurance mechanisms as specified in this rule.

g. During the operating life of the facility, if the value of the trust fund is greater than the sum of the current cost estimates, the owner or operator may submit a written request together with supporting documents to the director for release of the amount in excess of the current cost estimates.

h. If the owner or operator substitutes other financial assurance mechanisms as specified in this rule for all or part of the trust fund, the owner or operator may submit a written request to the director for release of the amount in excess of the closure cost estimates covered by the fund.

i. Within sixty (60) days after receiving a request from the owner or operator for release of funds specified in paragraphs (h) or (i), the director shall instruct the trustee to release to the owner or operator such funds that are in excess of the latest cost estimates covered by the trust fund.

j. The trustee shall notify the owner or operator and the director by certified mail within ten (10) days if a payment is not made on the required date. If the required payment is not made within sixty (60) days of the director's receipt of the nonpayment notice, the owner or operator must stop accepting waste and shall close the facility as provided in subrule 103.2(3).

k. The trustee shall submit an annual evaluation of the account on the anniversary date of creation of the trust to the owner or operator and the director.

l. After beginning actions at the facility in closure or postclosure care, an owner, operator, or other person authorized to perform those actions may request reimbursement for expenditures on completed work by submitting itemized bills to the director. Within ninety (90) days after receiving bills for closure or postclosure activities, the director shall determine whether the expenditures are in accordance with the appropriate plan or are needed to ensure proper closure and postclosure care. The director shall then instruct the trustee to make reimbursement in the amounts the director specifies in writing. If the director believes that the cost will be significantly greater than the value of the trust fund, the director may withhold reimbursement of the amounts as deemed prudent until it is determined that the owner or operator is no longer required to maintain financial assurance.

102.16(2) Trust funds for unrelated sites. Trust funds that receive payments from more than one owner or operator for financial assurance at different sites shall operate like trust funds specified in subrule 102.16(1), except that:

a. The trustee shall maintain a separate account for each site and shall evaluate each account annually as of the day of creation of the trust.

b. The trustee shall annually notify each owner or operator and the director of the evaluation of each owner's or operator's account.

c. The trustee shall release excess funds as required from the account for each site.

d. The trustee shall reimburse the owner or operator or other person authorized to perform closure or postclosure care only from the account for that site.

e. The department may direct the trustee to withhold payments only from the account for the site for which it has reason to believe the cost of closure or postclosure care will be greater than the value of the account.

102.16(3) Surety bond guaranteeing payment into a trust fund.

a. An owner or operator may satisfy the requirements of this rule by obtaining a surety bond that conforms to the requirements of this subrule and by submitting the bond to the director. The surety company issuing the bond must be among those listed as acceptable sureties on federal bonds in Circular 570, issued by the United States Department of Treasury, as published annually in the Federal Register on July 1.

b. The wording of the surety bond shall be identical to the wording of the surety bond form supplied by the department.

c. The owner or operator who uses a surety bond to satisfy the requirements of rule 102.15 shall also establish a standby trust fund. Under the terms of the bond, the surety will deposit all payments made under the bond directly into the standby trust fund in accordance with the instructions from the director. This standby trust fund must meet the requirements in 102.16, except that an originally signed duplicate of the trust agreement must be submitted to the director with the surety bond. The trust must meet the following requirements if funded under this subrule:

(1) Payments into the trust fund as specified in subrule 102.16(1);

(2) Updating of Schedule A of the trust agreement to show the sum of the current cost estimates;

(3) Annual evaluations as required by the trust agreement; and

(4) Notices of nonpayment as required by the trust agreement.

d. The bond must guarantee that the owner or operator will:

(1) Fund the standby trust fund in an amount equal to the penal sum of the bond before the final closure of the facility; or

(2) Pay into the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued by the director, the agency, or court of competent jurisdiction; or

(3) Provide alternate financial assurance as specified in this rule, and obtain the director's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the director of a notice of cancellation of the bond from the surety.

e. Under terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

f. The penal sum of the bond must equal the sum of the current cost estimates.

g. Whenever the sum of the current cost estimates becomes greater than the penal sum, the owner or operator, within 60 days after the increase, shall either increase the penal sum to an amount at least equal to the current cost estimates and submit evidence of the increase to the director, or obtain other financial assurance as specified in this rule to cover the increase. Whenever the current closure cost estimates decrease, the penal

sum shall be reduced to the amount of the current cost estimates following written approval by the director.

h. Under terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and the director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by the receipts.

102.16(4) Surety bond guaranteeing performance.

a. An owner or operator may satisfy the requirements of this rule by obtaining a surety bond that conforms to the requirements of this subrule and submitting the bond to the director. The surety company issuing the bond must be among those listed as acceptable sureties on federal bonds in Circular 570, issued by the United States Department of Treasury, as published annually in the Federal Register on July 1.

b. The wording of the surety bond shall be identical to the surety bond form supplied by the department.

c. The owner or operator who uses the surety bond to satisfy the requirements of this rule shall also establish a standby trust fund. Under terms of the bond, the surety will deposit all payments made under the bond directly into the standby trust fund in accordance with instructions from the director. This standby trust must meet the requirements specified in 102.15(4)(a), except that the originally signed duplicate of the trust agreement must be submitted to the director with the surety bond. The trust must meet the following requirements if funded under this subrule:

- (1) Payments into the trust fund as specified in paragraph 102.16(1)(c);
- (2) Updating of Schedule A of the trust agreement to show current cost estimates;
- (3) Annual evaluations as required by the trust agreement;
- (4) Notices of nonpayment as required by the trust agreement.

d. The bond must guarantee that the owner or operator will:

(1) Perform closure and/or postclosure care in accordance with the appropriate plans and other requirements of the permit for the facility whenever required to do so; or

(2) Provide alternate financial assurance as specified in this rule, and obtain the director's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the director of a notice of cancellation of the bond from the surety.

e. Under terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a determination by the director that the owner or operator has failed to perform final closure and/or postclosure care in accordance with the appropriate plan and other permit requirements when required to do so, under the terms of the bond the surety shall deposit the amount of the penal sum into the standby trust fund.

f. The penal sum of the bond must at least equal the sum of the current cost estimates.

g. Whenever the sum of the current cost estimates becomes greater than the penal sum, the owner or operator, within 60 days after the increase, shall either increase the penal sum to an amount at least equal to the current cost estimates and submit evidence of the increase to the director, or obtain other financial assurance as specified in this rule to cover the increase. Whenever the current cost estimates decrease, the penal sum shall be reduced to the amount of the current cost estimates following written approval by the director.

h. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the

director. However, cancellation is not effective until 120 days after the director has received the notice of cancellation, as evidenced by the returned receipts.

i. The owner or operator may cancel the bond if the director has given prior written consent based on the director's receipt of evidence of alternate financial assurance as specified in this rule.

j. The surety will not be liable for deficiencies in the performance of closure and/or postclosure by the owner or operator after the department releases the owner or operator from the financial requirements of subrule 102.15(8)/

102.16(5) Letter of credit.

a. An owner or operator may satisfy the requirements of rule 102.15 by obtaining an irrevocable letter of credit which conforms to the requirements of this subsection, and by submitting the letter to the director. The issuing institution must be an entity within the state of Iowa which has the authority to issue letters of credit. Its letter of credit operations must be regulated and examined by a federal or state of Iowa agency.

b. The wording of the letter of credit must be identical to the wording in the letter of credit form supplied by the department.

c. An owner or operator who uses a letter of credit to satisfy the requirements of this rule shall also establish a standby trust fund. Under terms of the letter of credit, the issuing institution will deposit all amounts paid directly into the standby trust fund in accordance with instructions from the director. This standby trust fund must meet the requirements of subrule 102.16(1) except that an originally signed duplicate of the trust agreement must be submitted to the director with the letter of credit. The trust must meet the following requirements if funded under this subrule:

(1) Payments into the trust fund as specified in 102.16(1)(c);  
(2) Updating of Schedule A of the trust agreement to show current cost estimates;

(3) Annual valuations as required by the trust agreement; and

(4) Notices of nonpayment as required by the trust agreement.

d. The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the identification number, name and address of the facility, and the amount of funds assured for closure and/or postclosure by the letter of credit.

e. The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be extended automatically for a period of at least one year unless, at least 120 days prior to the current expiration date, issuing institution notifies both the owner or operator and the director by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date the director has received the notice, as evidenced by the return receipt.

f. The letter of credit must be issued in an amount at least equal to the current cost estimates.

g. Whenever the sum of the current cost estimates becomes greater than the amount of credit, the owner or operator, within 60 days after the increase, shall either cause the amount of the credit to increase so that it at least equals the sum of the current cost estimates and shall submit evidence of the increase to the director or obtain other financial assurance as specified in this rule to cover the increase. Whenever the sum of the current cost estimates decreases, the amount of the credit shall be reduced



to the amount of the current cost estimates following written approval by the director.

h. Following a determination by the director that the owner or operator has failed to perform closure and/or postclosure in accordance with the plan and other permit requirements when required to do so, the director shall draw on the letter of credit.

i. The director shall draw on the letter of credit if the owner or operator does not establish alternate financial assurance as specified in this rule and obtain written approval of alternate assurance from the director within 90 days after the director receives notice from the issuing credit beyond the current expiration date. The director may delay the withdrawing if the issuing institution grants an extension of the term of credit. During the last 30 days of any extension, the director shall draw the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this section and obtain written approval of the assurance from the director.

102.16(6) Financial test and self-insurance.

a. An owner or operator may satisfy the requirements of this rule by demonstrating that he passes the financial test as specified in this subrule. An owner or operator who wants to use this financial assurance mechanism must also send to the director one of three forms of approved security. The approved securities are:

(1) Subordinated debentures whose market value equals or exceeds the sum of the current cost estimates;

(2) Municipal bonds whose market value equals or exceeds the sum of the current cost estimates; or

(3) Warrants drawn on the owner's or operator's municipal treasury in an amount that equals or exceeds the sum of the current cost estimates.

b. The owner or operator must meet the following criteria to pass the financial test.

(1) The owner or operator of a privately owned facility must have:

(a) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; or a ratio of current assets to current liabilities greater than 1.5;

(b) Net working capital and tangible net worth each at six times the current cost estimates for all owned or operated waste facilities;

(c) Tangible net worth of at least \$10,000,000; and assets located in the United States amounting to at least 90 percent of the owner's or operator's total assets at least six times the current cost estimates for all owned or operated facilities.

(2) As an alternative to subparagraph (1) above, the owner or operator of a privately owned facility must have:

(a) A current rating for its most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, or Baa as issued by Moody's;

(b) Tangible net worth at least six times the sum of the current cost estimates for all owned or operated facilities covered;

(c) Tangible net worth of at least \$10,000,000; and

(d) Assets located in the United States amounting to at least 90 percent of the owner's or operator's total assets or at least six times the sum of the current cost estimates for all facilities covered.

(3) The owner or operator of a publicly owned facility must have:

(a) A current rating for its most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's;

(b) A surplus of the net debt limit imposed by Iowa statute over existing debt that exceeds the sum of the current cost estimates;

(c) Current tax levies that do not exceed the levy limits imposed by Iowa statute; and

(d) A certification by an appropriate official that no foreseeable conditions in the coming year will cause the owner or operator to fail to meet the criteria outlined in (a), (b), and (c).

c. To demonstrate that the criteria in the financial test are met, the owner or operator shall submit the following items to the director:

(1) A letter certifying that the owner or operator passes one of the financial tests. The owner or operator of a privately owned facility shall send a letter as specified in paragraph (b) and signed by the owner's or operator's chief financial officer. The owner or operator of a publicly owned facility shall send a letter worded as specified in the self-insurance form supplied by the department and signed by the owner's or operator's independent certified public auditor and the head of the elected body responsible for the facility permit.

(2) A copy of the owner's or operator's financial statements for the latest completed fiscal year. The owner or operator of a privately owned facility shall send an independent certified public accountant's report on examination of financial statements. The owner or operator of a publicly owned facility shall send the financial statements prepared in accordance with Iowa statute.

(3) Special reports from an independent certified public accountant stating that:

(a) The accountant has compared the data in the letter submitted under subparagraph (1) with the amounts in the financial statements;

(b) In connection with that procedure, no matters came to the accountant's attention that caused the accountant to believe that the specified data should be adjusted; and

(c) The total of the bonds or warrant sent to the director equals or exceeds the sum of the current cost estimates.

(4) After initial submission of the information specified in paragraphs (1), (2) and (3), the owner or operator shall send updated information to the director within 90 days after the close of each succeeding year. If the owner or operator no longer meets the requirements of the financial test, the owner or operator shall send notice to the director that it has either repaired the defect in the corporate guarantee or established alternate financial assurance. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements.

(5) The director shall not allow the use of self-insurance if:

(a) The accountant's opinions required in subparagraph (3) include an adverse opinion or a disclaimer of opinion;

(b) The opinion includes qualifications that relate to the numbers that are used in the gross revenue test or the financial test; or

(c) In light of the qualifications, the owner or operator has failed to demonstrate that it meets the gross revenue or the financial test.

(6) An owner or operator may satisfy the financial assurance requirements of rule 102.15 by obtaining a written guarantee, hereafter referred to as a corporate guarantee. If the owner or operator makes the self-insurance demonstration through the use of a corporate guarantee, the parent corporation must be the entity that issues the bonds that are sent to the director.

The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for facility owners or operators in

this subrule and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording on the form supplied by the department. The corporate guarantee must accompany the items sent to the director as specified in paragraph 3. The terms of the corporate guarantee must provide:

(a) If the owner or operator of a facility covered by the corporate guarantee fails to perform closure or postclosure care in accordance with the appropriate plan and other permit requirements whenever required to do so, the guarantor shall do so or establish a trust fund as specified in subrule 102.16(1) in the name of the owner or operator.

(b) The corporate guarantee remains in force unless the grantor sends notice of cancellation by certified mail to the owner or operator and the director. Cancellation may not occur, however, during 120 days beginning on the date of receipt of the notice of cancellation by the director, as evidenced by the return receipt.

(c) If the owner or operator fails to provide alternate financial assurance as specified in this rule and fails to obtain the written approval of financial assurance from the director within 90 days after receipt by the director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor shall provide alternate financial assurance in the name of the owner or operator.

d. The bonds sent to the director under this subrule must be readily salable in secondary bond markets. The market value of the bonds must equal or exceed the sum of the current cost estimates. The director shall give the owner or operator a receipt for the bonds. The director shall have the bonds kept by the state treasurer until the bonds must either be sold or returned to the owner or operator. The owner or operator of a privately owned facility shall send bonds that are registered, subordinated debentures. The owner or operator of a publicly owned facility shall send bonds that are registered municipal bonds and that meet the requirements of Iowa statutes. The bonds must mature at the following times:

(1) Bonds used to self-insure closure costs must mature two years after the estimated closure date, as determined in the closure plan.

(2) Bonds used to self-insure postclosure care must mature two years after the end of the postclosure care period, as determined in the postclosure plan or thirty years after the date of issue, whichever is less.

(3) If either of the maturity dates required under subparagraphs (1) or (2) exceeds 30 years, the owner or operator of a publicly owned facility may submit bonds with 30-year maturities and, thereafter, annually submit new 30-year bonds for the bonds held by the state treasurer. The substitutions must continue until the maturities required under subparagraphs (1) and (2) equal the maturities of bonds that the state treasurer holds.

e. The value of a warrant sent by an owner or operator must equal or exceed the sum of the current cost estimates. The director shall give the owner or operator a receipt for the warrant. The director shall have the warrant kept by the state treasurer until the warrant must either be submitted for payment or returned to the owner or operator.

f. The owner or operator who uses self-insurance to satisfy the requirements of rule 102.15 shall also establish a standby trust fund. The standby trust fund must meet the requirements in subrule 102.16(1), except that an originally signed duplicate of the trust agreement must be submitted to the director with the bonds or warrant. The trust must meet these requirements if the fund is funded under this rule:

(1) Updating Schedule A of the trust agreement to show the sum of the current cost estimates; and

(2) Annual valuations as required by the trust agreement.

g. If the sum of the current cost estimates changes, the owner or operator shall compare the new estimate with the most recent annual valuation of the bonds or the value of the warrant. If the total market value of the bonds or the value of the warrant is less than the amounts of the new estimates, the owner or operator shall, within 60 days after the change in the cost estimates, send to the director either enough bonds or another warrant to make up the deficiency or establish other financial assurance mechanisms as specified in this rule. If the owner or operator sends in more bonds, the bonds must be accompanied by an independent certified public accountant's report that the new issues have a market value that equals or exceeds the amount of the deficiency.

h. The owner or operator may request to exchange new issues of bonds or warrants held by the state treasurer on the director's behalf. The new issues must have a market value equal to the bonds for which they are exchanged. New warrants must equal in value to the warrants for which they are exchanged. The owner's or operator's request for a bond exchange must be accompanied by an independent certified public accountant's report that the new issues have a market value equal to the bonds for which they are exchanged. The director shall make the exchange after receiving the request, the warrants or bonds, and the accountant's report that must accompany the bonds or warrants. The director and the owner or operator shall provide each other with receipts appropriate to document the exchange.

i. During the operating life of the facility, if the total market value of the bonds exceeds the sum of the current cost estimates by an amount greater than the market value of any single bond, the owner or operator may submit a written request together with supporting documents to the director for return of bonds whose total value is not greater than the excess amount. If the value of warrants submitted exceeds the sum of the current cost estimates, the owner or operator may substitute a warrant with a value equal to the sum of the current cost estimates, provided that supporting documents justify substitution.

j. If the owner or operator substitutes other financial assurance mechanisms as specified in this rule in place of self-insurance, the owner or operator may submit a written request to the director for return of the bonds or warrants along with evidence of the substitute mechanisms have taken effect.

k. Within 60 days of receiving a request from the owner or operator for return of bonds or warrants as specified in paragraphs (i) or (j) and if supporting documents support such request, the director shall return the warrants or appropriate number of bonds. The owner or operator shall give the director an appropriate receipt for all warrants or bonds returned.

(1) If the owner or operator asks for an adjustment under paragraph (i), the director shall:

- (a) Return all warrants for warrants of the correct value; or
- (b) Return bonds whose total market value does not exceed the difference between the sum of the previous cost estimates and the sum of the revised cost estimates.

(2) If the owner or operator asks for a return of securities under paragraph (j) when a partial substitution of other financial assurance mechanisms for self-insurance has been made, the director shall:

- (a) Return all warrants for warrants of the correct value; or
- (b) Return bonds whose total market value does not exceed the difference between the sum of the current cost estimates and the amount of financial assurance offered by substitute mechanisms.

(c) If the owner or operator asks for a return of securities under paragraph (j) when a full substitution of other financial assurance mechanisms has been made, the director shall return all warrants and bonds.

1. If the owner, operator or guarantor, after proper orders from the director, fails or refuses to perform actions specified in the closure plan or postclosure plan, the director shall seek authorization from the department to sell bonds or submit warrants for payment. The director shall also seek if the owner or operator fails the criteria of the financial test and fails to provide alternate financial assurance within 90 days, as provided in paragraph (c). The director shall have the proceeds from the bond sales or warrant payments deposited in the standby trust fund established under paragraph (f).

---

Date

---

Larry J. Wilson, Director

Mr. Stokes explained the proposed rule and stated that it will be brought before the Commission in October or November as a Notice of Intended Action. He stated that a draft of the proposed rules has been distributed to the State Insurance Commissioner, the Insurance Department and the Attorney General for their input.

Mike Earley asked if any other states have this type of financial responsibility law.

Mr. Stokes replied that there are other states that have the law and staff is in the process of compiling this information.

Commissioner Earley suggested that staff check with DOT for information.

Clark Yeager suggested having an ad hoc committee of technical people such as representatives of ISOSWO, banking, city finance, etc., to review the proposed rules before taking to Notice of Intended Action. Additional suggested representatives were ISAC, Iowa League Municipalities, IDOP, DOT, and the Insurance Commissioner.

Commissioner Earley volunteered to represent the Commission on this committee and related that he will seek a lawyer to work with them.

This was an informational item; no action was required.

PROPOSED RULE--CHAPTERS 70, 71, 72, 73, 74 AND 75, FLOODPLAIN  
DEVELOPMENT PERMITS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Department is proposing to amend Chapters 70, 71, 72, 73, 74 and 75 of the administrative rules which relate to floodplain development. The amendments being proposed would:

Eliminate milldams as a separate class of dam. Legislation proposed by the Commission and passed last session repealed a portion of Iowa Code Chapter 469 relating to Department regulation and inspection of milldams. Such dams are now regulated under the provisions of Iowa Code Chapter 455B. The rule amendments would bring the administrative rules in line with the statutory changes.

Make minor changes in the floodplain permit review procedure to streamline the review process for routine, non-controversial projects.

Change the threshold limits (i.e., when approval is needed) for small dams within and near cities and add a minimum dam height criterion for other dams.

Exempt from permit requirements bridges constructed in conjunction with channel changes in rural areas on streams draining less than 100 square miles. The threshold limits for channel changes on these streams would not be changed.

Make minor "housekeeping" changes (dates, names, etc.) to the rules and Technical Bulletin No. 16, Design Guidelines for Iowa Dams.

The draft rule amendments will be distributed and discussed at the Commission meeting.

(Rule & Design Guidelines for Iowa Dams shown on the following 21 pages)

ENVIRONMENTAL PROTECTION COMMISSION {567}  
Notice of Intended Action

Pursuant to the authority of Iowa Code Section 455B.278, the Environmental Protection Commission intends to amend Chapter 70, "Scope of Title - Definitions - Forms - Rules of Practice," Chapter 71, "Flood Plain or Floodway Development - When Approval is Needed," Chapter 72, "Criteria for Approval," Chapter 73, "Use, Maintenance, Removal, Inspections, and Safety of Dams," Chapter 74, "Milldams and Races," and Chapter 75, "Management of Specific Flood Plain Areas."

The proposed rule amendments are intended to reflect legislation which repealed the regulatory provisions of Iowa Code Chapter 469 (Dams), to streamline and clarify the flood plain permitting procedure, and to make various other minor changes in the Commission's flood plain rules and the department's Technical Bulletin No. 16, "Design Criteria and Guidelines for Iowa Dams."

The Acts of the 73rd General Assembly, 1990 Regular Session, House File 2296, repealed portions of Iowa Code Chapter 469 relating to the regulation of milldams by the Iowa Department of Natural Resources. In effect, the legislation eliminated milldams as a separate class of dam and placed the regulatory control over such dams under the provisions of Iowa Code Section 455B.275, the section of the Iowa Code which gives the Department of Natural Resources regulatory authority over all other types of flood plain development including non-milldams. The present Commission rules are in conflict with these statutory changes. The proposed rule amendments would rescind Chapter 74, "Milldams and Races" and eliminate references to milldams in other Chapters.

A review of the present flood plain permitting procedures showed that changes in the present rules were justified to eliminate unnecessary administrative procedures and to change the administrative thresholds which govern when approval is needed for various categories of projects. The proposed amendments would eliminate the requirement that a project summary report be prepared for all projects prior to the issuance of a flood plain development permit, thus eliminating a time-consuming step which is not needed for routine projects. Project summary reports would still be prepared for complex or controversial projects and for projects being recommended for disapproval.

Additionally, the proposed amendments would change the administrative thresholds for dams, bridges and pipeline crossings. Approval is currently required for very small dams in incorporated areas and within two miles thereof. It is being proposed that the size limitations for this category be changed and that the two mile distance be changed to one mile, thereby exempting from regulation those very small dams that have essentially no potential public impact should they fail. For other categories of dams, a minimum height threshold is being added to the existing storage thresholds.

Bridges associated with channel changes in rural areas would no longer be regulated if the stream drains less than 100 square miles. The channel change portion of such projects would, however, remain subject to the existing approval requirements.

Buried pipeline crossings which would not result in changes to the flood plain topography would also no longer be regulated. Other regulations and design standards for buried pipelines both within and without the department are sufficient to insure that buried pipelines are constructed to minimize the potential for rupture and discharge into the stream.

Other changes being proposed are primarily to clarify existing procedures and update references and are not substantive changes. Included in this category are the changes being made to the department's Technical Bulletin No. 16, Design Guidelines for Iowa Dams, which is adopted by reference.

Any interested person may file written comments or suggestions on the proposed rule amendments through \_\_\_\_\_. Such written comments should be directed to Jack D. Riessen, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand, Des Moines, Iowa 50319. Persons are also invited to present oral or written comments at a public hearing which will be held:

---

The following amendments are proposed:

ITEM 1. Rule 567--70.1(109, 455B,469), last unnumbered paragraph, is amended to read as follows:

Minimum statewide criteria for most types of flood plain development are listed in Chapter 72. Special requirements for dams are listed in Chapter 73. ~~Requirements which apply only to milledams are listed in Chapter 74.~~

ITEM 2. Rule 567--70.3 (17A, 109, 455B, 469) is amended to read as follows:

567--70.3 (17A, 109, 455B, 469) Forms. The following forms are currently in use for flood plain projects.

Form 36: Application for approval of Construction in or on any Floodway or Flood Plain. 8/85- 4/87. 542-3234

Form 37: Notification of Completion of Construction. 7/83- 1/87. 542-3017

~~Form--38:--Temporary--Stream--Crossing--for--Highway--Construction:---7/83-542-1011~~

ITEM 3. Rule 567--70.4 (17A, 109, 455B) is rescinded and replaced with the following in lieu thereof:

567--70.4 (17A, 109, 455B). Requesting approval of flood plain development.

70.4(1) Development needing approval. Any development in a floodway or flood plain which exceeds the thresholds in Chapter 71 of these rules and is not otherwise regulated by a department flood plain management order or a department-approved, locally adopted flood plain management ordinance requires a department flood plain development permit.

70.4(2) Applying for a flood plain development permit. Application for a flood plain development permit shall be made on DNR Form 36 or a reasonable facsimile thereof. The application shall be submitted by or on behalf of the person or persons who have or will have responsibility by reason of ownership, lease, or easement for the property on which the project site is located. The application must be signed by the applicant or a duly authorized agent. Completed applications along with supporting information shall be mailed or otherwise delivered to the Flood Plain Management Section, Environmental Protection Division, Iowa Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319.

70.4(3) Engineering Plans.

a. General requirement of certified plans. An application shall not be considered complete until sufficient engineering plans have been submitted to enable the department to determine whether the project as proposed satisfies applicable criteria. The engineering plans shall contain information specified by the department, including specifications, operation procedures and other information relating to environmental impacts. The engineering plans and other engineering information shall be certified by a registered



professional engineer or, if applicable, a registered land surveyor, as required by Iowa Code chapter 114. Duplicate copies of certified plans are required so that one copy can be returned to the applicant upon approval or disapproval of the application. An additional copy of the certified plans shall be required if the plans are incorporated as part of an approval or disapproval order which is filed with a county recorder.

b. Waiver of submission of certified plans. The department may waive the requirement in paragraph "a" of this subrule that the application for approval of a floodplain project be supported by certified engineering plans by making one of the following determinations:

(1) Engineering data are not required to determine that the project conforms to all applicable administrative and statutory criteria; or

(2) Adequate engineering data used to evaluate the dimensions and effects of the project were already available to the engineering staff.

70.4(4) Application fee. Reserved. No fee is charged at this time.

70.4(5) Modification of application or plans. Applicants and prospective applicants are encouraged to communicate with the department's staff before submitting plans to identify the data required for review of a project and to discuss project modifications reasonably required to make the project conform to applicable criteria. When staff review of submitted plans discloses need for plan modification to conform to one or more criteria, the applicant is encouraged to submit revised plans.

ITEM 4. Subrules 70.5(1), 70.5(3) and 70.5(4) are amended to read as follows:

70.5(1) Initial screening of applications. Each application upon receipt shall be promptly evaluated by the department to determine whether adequate information is available to review the project. The department shall then advise the applicant of any additional information required to review the project. If the requested information is not submitted within 60 days of the date the request is made, the department may consider the application withdrawn.

70.5(3) Project investigation. The department shall make an investigation of a project for which an application is submitted. The following are standard procedures for an investigation of an application.

a. Inspection. Agency personnel may make one or more field inspections of the project site when necessary to obtain information about the project. Submission of the application is deemed to constitute consent by the applicant for the agency staff and its agents to enter upon the land on which the proposed activity or project will be located for the sole purpose of collecting the data necessary to process the application, unless the applicant indicates to the contrary on the application.

b. Hydraulic Technical Review. The department staff shall conduct an appropriate--hydraulic a technical review using appropriate analytical techniques such as application of hydrologic and hydraulic models to determine the hydraulic effects and impacts of the a proposed project.

c. Solicitation of expert comments on environmental effects. For channel changes or other development which may cause significant adverse effects on the wise use and protection of water resources, water quality, fish, wildlife and recreational facilities or uses, the department shall request comments from the fish and wildlife division of the department or other knowledgeable sources.

d. Summary report of project review. Personnel-assigned-to-project-review shall-prepare-a-summary-report-which-shall-state-whether-the-project-conforms-to-relevant-criteria- The department staff may, at its discretion, prepare a

project summary report which summarizes the results of the review with respect to relevant criteria, the analytical methods used in the review and other project information. Typically, project summary reports will be prepared only for those projects for which negative comments have been received from potentially affected landowners, those projects which are not approvable, and those projects which are complex in nature. Project summary reports will not normally be prepared for routine, non-controversial projects.

e. Notice to landowners who might be affected. Before an application for approval of a levee or channel change is approved the department shall require the applicant to provide the names of the owners and occupants of land located immediately upstream, downstream, and across from the project site, and owners of any other land which the agency staff determines may be adversely affected by the project. The department shall then notify the landowners that the project is under consideration and provide a reasonable opportunity for submission of comments. The requirements of this paragraph also apply to other types of flood plain development when the project review discloses that lands not controlled by the applicant may be adversely affected by the project.

f. Notice to the applicant that project does not conform to criteria. If the project review discloses that the project violates one or more criteria and that the project should be disapproved, or approved only subject to special conditions to which the applicant has not agreed, the department shall notify the applicant and, when practical, suggest appropriate project modifications. The department shall offer the applicant an opportunity to submit comments before an initial decision is made.

70.5(4) Initial decision by the department.

~~a.---Ferm -of -decision: --The -initial -decision -by -the -department -on -an application-shall-be-an-approval-or-disapproval-order-issued-by-the-chief-of the -flood -plain -branch; -program -operations -division: --The -decision -shall include -the -general -conditions -listed -in -Chapter -72 -of -these -rules -when appropriate; -and -may -include -one -or -more -special -conditions -when -reasonably necessary -to -implement -relevant -criteria: --The -decision -may -incorporate -by reference -and -attachment -the -summary -report -described -in -70.5(3)"d" -of -these rules:--The -decision -shall -include -the -following:~~

~~--1---Determinations-as-to-whether-the-project-satisfies-all-relevant-criteria not-addressed-in-an-attached-summary-report:~~

~~--2---An-explanation-of-the-basis-for-imposing-each-special-condition:~~

~~--3---Explanation--of--the--consideration--given--to--all--comments--submitted pursuant-to-70.5(3)"e"-and-"f"-unless-the-comments-are-adequately-addressed-in an-attached-summary-report:~~

The initial decision by the department on an application for a flood plain development permit shall be either approval or disapproval. The initial decision shall include a determination whether the project satisfies all relevant criteria and may incorporate by reference and attachment the summary report described in 70.5(3)d of these rules.

a. Approval. Issuance of a flood plain development permit shall constitute approval of a project. The permit shall include applicable general conditions listed in Chapter 72 of these rules and may include one or more special conditions when reasonably necessary to implement relevant criteria.

b. Disapproval. A letter to the applicant denying the application shall constitute disapproval of a project.

c. b. Notice of initial decision. Copies of the initial decision shall be mailed to the applicant, any person who commented pursuant to 70.5(3)"e", and any other person who has requested a copy of the decision. The decision may

be sent by ordinary mail, first class, and shall be accompanied by a certification of the date of mailing. An initial decision becomes the final decision of the department unless a timely notice of appeal is filed in accordance with 70.6(17A, 109, 455B, 469). The final decision may be filed with the appropriate county recorder to give constructive notice to future landowners of any conditions or requirements imposed by the final decision.

ITEM 5. Rule 567--70.6(17A, 109, 455B, 469), implementation paragraph, is amended to read as follows:

These rules are intended to implement Iowa Code Sections 17A.3, 109.15, 455B.105, Chapter 455B, division III, part 4; and ~~Chapter 469~~.

ITEM 6. Subrule 71.1(1) is amended to read as follows:

71.1(1) Rural area - floodway. In rural areas:

a.--~~Bridges~~ bridges, culverts, road embankments, and temporary stream crossings in or on the floodway of any river or stream draining more than one hundred ~~(100)~~ square miles. (Note: Channel modifications associated with bridge, culvert or roadway projects may need approval, see 567--71.2(455B)).

b.--~~Bridges; -culverts; -road -embankments; -and -temporary -stream -crossings involving -channel -changes -in -or -on -the -floodway -of -any -stream -draining -at -the -location -of -the -channel -change -between -ten -(10) -and -one -hundred -(100) -square miles -whereby -either -(i) -more -than -five -hundred -(500) -foot -length -of -the existing -channel -is -being -altered -or -(ii) -the -length -of -existing -channel -being altered -is -reduced -by -more -than -twenty -five -percent -(25%)-.~~

ITEM 7. Subrule 71.3(1) is amended to read as follows:

71.3(1) Rural areas. In rural areas:

a. Any dam designed to provide a sum of permanent and temporary storage exceeding fifty (50) acre-feet at the top of dam elevation, or twenty-five (25) acre-feet if the dam does not have an emergency spillway, and which has a height of five feet or more.

b. Any dam designed to provide permanent storage in excess of eighteen (18) acre-feet: and which has a height of five feet or more.

c. Any dam across a stream draining more than ten (10) square miles.

d. Any dam located within ~~two~~one (2) miles of an incorporated municipality, if the dam has a height of ten (10) feet or more, and -is -designed -to -temporarily -store -more -than -five -(5) -acre -feet -at -the -top -of -dam -elevation; -or -impounds -a -stream -draining -two -(2) -or -more -square -miles: stores ten acre-feet or more at the top of dam elevation, and is situated such that the discharge from the dam will flow through the incorporated area.

ITEM 8. Subrule 71.3(5) is rescinded.

ITEM 9. Rule 567--71.8(455B) is amended to read as follows:

567--71.8(455B) Pipeline crossings. Approval by the department for the construction, operation and maintenance of buried pipeline crossings is not required if the natural contours of the channel and flood plain are maintained. (Note: Approval of streambank protection measures associated with pipeline crossings may need approval under 567--71.9(455B)). Approval by the department for the construction, operation, and maintenance of all other pipeline crossings shall be required in the following instances.

71.8(1) Rural areas. In rural areas, pipeline crossings on any river or stream draining more than ~~one-hundred-(100)~~ square miles.

71.8(2) Urban areas. In urban areas pipeline crossings on any river or stream draining more than two (2) square miles.

ITEM 10. Paragraph 72.3(1)"a" is amended to read:

a. Required findings. The department will approve the construction, operation or maintenance of a dam or modification of a dam or appurtenant

structure only after finding that the project is designed in accordance with accepted engineering practice and methods and in a manner consistent with the applicable criteria and guidelines in department Bulletin No. 16, "Design Criteria and Guidelines for Iowa Dams," July-1983 September 1990.

ITEM 11. Subrule 73.1(1) is amended to read as follows:

73.1(1) When approval of operating plan required. An operating plan approved by the department shall be required for any dam exceeding the thresholds established in department rule 71.3(455B) ~~and-for-any-milldam~~ if the dam ~~or-milldam~~ has moveable structures which must operate during floods or to release a minimum downstream flow, or the impoundment water level is raised or lowered regularly or periodically.

ITEM 12. Subparagraph 73.1(2)"a"1 is amended to read as follows:

(1) Where operating plan is related to proposed construction. If an operating plan is required for a proposed new dam or because of proposed structural modification of an existing dam, the operating plan will be reviewed as part of the department review of construction plans which are required by Chapter 5070 to 52 72. Approval of the proposed operating plan will be made a part of the department order permit, which approves the construction plans.

ITEM 13. Subrule 73.2(1) is amended to read as follows:

73.2(1) When approval required. A separate approval is required to temporarily or permanently raise or lower the level of water impounded by a dam which exceeds the thresholds of rule 71.3(455B) ~~or-a-milldam--as-defined in-Iowa-Code-Chapter-469~~; unless the raising and lowering has been authorized as part of an approved operation plan. Such approval shall be in the form of a letter authorizing the lowering or raising and may be conditioned upon various requirements.

ITEM 14. Subrule 73.11(1) is amended as follows:

73.11(1) When approval required. Agency approval is required to remove a ~~milldam-of~~ any other dam which exceeds the thresholds in rule 71.3(455B).

ITEM 15. Subrule 73.20(1) is amended to read as follows:

73.20(1) Scope of dam safety inspection program. Dams subject to inspection under these rules are ~~all-milldams~~; all dams which exceed the thresholds in rule 71.3(455B); and certain preexisting dams as described in 73.21(3). The scope of department staff field inspections normally is limited to visually observable features of dams and their appurtenant structures.

ITEM 16. Subparagraph 73.21(1)"d" 1 is amended to read as follows:

(1) Inspections by department personnel. All major structures shall be inspected by agency staff on a regular basis. The department staff shall notify the dam owner or agent before each inspection. High hazard structures shall be inspected at least once every two (2) years. Major structures not classified as high hazard shall be inspected at least once every five (5) years. Structures in poor condition shall be inspected more frequently until required repairs are completed. ~~Milldams-shall-receive-annual-inspections-~~ Each inspection shall assess the condition of the dam and appurtenant structures and the adequacy of operation and maintenance practices. If warranted, the inspection may include reevaluation of the ability of the dam and appurtenant structures to adequately withstand the hydraulic loadings and pass the appropriate design floods.

ITEM 17. Subparagraph 73.21(2)"c" 3 is rescinded.

ITEM 18. Rule 567--73.22 (109, 455B, 469) is amended to read as follows:

567--73.22 (109, 455B, 469) Duty of dam owner to maintain, investigate, inspect and report. The owner of a dam has a responsibility to maintain the

dam and appurtenant structures in a safe condition. The owner should perform regular inspections to identify potential maintenance problems. The owner of a dam which exceeds the thresholds in rule 71.3(455B) ~~or a milldam~~ will be required by the department to arrange for performance of engineering investigations when needed to evaluate potential safety problems. In any case where the department determines the need for follow-up inspections, the dam owner may be required to have a qualified person make inspections and prepare written inspection reports at specified intervals.

ITEM 19. The implementation clause of Chapter 73 is amended to read as follows:

The rules in this chapter are intended to implement Iowa Code Sections 109.15, 455B.275, 455B.277, 455B.264, ~~469-1; 469-10~~ and 17A.12.

ITEM 20. Chapter 74 is rescinded.

ITEM 21. Subrule 75.1(1), catch phrase, is amended to read as follows:

75.1(1) Regulation of development by issuance of ~~council~~ department flood plain management orders.

---

Date

---

Larry J. Wilson Director

(A:EP70-75.MIN/253-90/bkp)

## IOWA DEPARTMENT OF NATURAL RESOURCES

### TECHNICAL BULLETIN NUMBER 16

#### FLOODPLAIN MANAGEMENT PROGRAM DESIGN CRITERIA AND GUIDELINES FOR IOWA DAMS\*

#### CONTENTS

<u>Chapter</u>	<u>Title</u>	<u>Page</u>
I	Introduction . . . . .	2
II	Hazard Classification . . . . .	3
III	Design Floods . . . . .	3
IV	Hydraulic and Structural Criteria and Guidelines for Spillways . . . . .	5
V	Embankments . . . . .	7
VI	Special Requirements for Major Dam Structures . . . . .	9
VII	Specifications . . . . .	10
VIII	Dam Breach Wave Analysis . . . . .	10
IX	Operating Plan . . . . .	11
X	Lands, Easements, Rights-of-way . . . . .	11
XI	Hydrologic and Hydraulic Design References . . . . .	12

\* Adopted by reference 567--72.3(1)"a", Iowa Administrative Code

## CHAPTER I INTRODUCTION

The purpose of this bulletin is to set forth technical design criteria and guidelines that the Department of Natural Resources will use in reviewing applications to obtain a permit for construction, operation and maintenance or modification of a dam. Other requirements which must be met in order to secure such a permit are outlined in the Iowa Administrative Code under agency number 567. Several chapters of the department's administrative rules in 567 Iowa Administrative Code concern the construction, operation and maintenance of dams as follows:

Chapter 70 contains definitions of terms used in other chapters.

Chapters 50, 51 and 52 concern water permits which must be obtained to authorize storage of water in surface impoundments.

Chapter 71 explains when approval is required in order to construct, modify, operate and maintain dams.

Chapter 72 lists criteria for approval of dam projects.

Chapter 73 concerns operational procedures for dams, fluctuation of water levels in impoundments, abandonment and removal of dams, inspections of dam sites and dams, and designation of unsafe dams. Chapter 73 applies to all dams whose dimensions or effects exceed the regulatory thresholds in Chapter 71.

Copies of the department's administrative rules may be obtained from the Records Center, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319, upon request.

The above-described rules should be consulted when planning to construct or modify a dam, change the operation or use of a dam, or

abandon or remove a dam. This bulletin is part of the above-described rules and is intended for use in conjunction with them. The chapters entitled "Hazard Classifications" and "Lands, Easements, Right-of-Way" are substantively identical to rules published in the Iowa Administrative Code. These non-technical criteria are repeated in this bulletin for the convenience of the user.

Minimum requirements in this bulletin are labeled as "guidelines" or "criteria" depending on the frequency with which they are likely to be relevant to the safety of a particular type of structure. The distinction between criteria and guidelines is not intended to be rigid. When the applicability of a criterion or guideline to a particular project is not clear to the design engineer, the engineer should consult the department. Any permit issued by the department must explain the reasons for waiving conformity with a criterion or guideline determined to be applicable to the type of structure proposed.

Adoption and Amendment of Bulletin #16. This bulletin has been adopted as part of the department's administrative rules. Pursuant to Section 17A.6(3), Code of Iowa, this bulletin is not published in the Iowa Administrative Code but copies will be made available to the public upon request at no more than the cost of reproduction.

This bulletin may be amended from time to time by rulemaking proceedings. Amended editions of this bulletin will be identified in Chapter 72 of the department's rules by reference to the year and month that the new, superseding edition becomes effective. The user should obtain a copy of current departmental rules as published in the Iowa Administrative Code and compare the edition date on the cover page of this bulletin with the edition date identified in the rules.

## CHAPTER II

### HAZARD CLASSIFICATION<sup>1</sup>

Dams shall be assigned a hazard class based on the potential consequences of failure. Anticipated future land and impoundment use shall be considered in the determination of hazard class. The criteria in this chapter shall be used to determine hazard class regardless of the methodology used in engineering design of a dam. The hazard class shall determine the design requirements of the structure as outlined in this bulletin. The hazard class shall be evaluated using the following criteria.

A) Low Hazard. Structures located in areas where damages from a failure would be limited to loss of the dam, loss of livestock, damages to farm out-buildings, agricultural lands, and lesser used roads, and where loss of human life is considered unlikely.

B) Moderate Hazard. Structures located in areas where failure may damage isolated homes or cabins, industrial or commercial buildings, moderately traveled roads or railroads, interrupt major utility services, but without substantial risk of loss of human life.

In addition, structures where the dam and its impoundment are of themselves of public importance, such as dams associated with public water supply systems, industrial water supply or public recreation, or which are an integral feature of a private development complex, shall be considered moderate hazard for design and regulatory purposes unless a higher hazard class is warranted by downstream conditions.

C) High Hazard. Structures located in areas where failure may create a serious threat of loss of human life or result in serious damage to

residential, industrial or commercial areas, important public utilities, public buildings, or major transportation facilities.

D) Multiple Dams. Where failure of a dam could contribute to failure of a downstream dam or dams, the minimum hazard class of the dam shall not be less than that of any such downstream structure.

## CHAPTER III

### DESIGN FLOODS

A dam will be required to safely accommodate or pass certain minimum flood events. Routings of the flood hydrograph through the impoundment should begin at an elevation no lower than the normal operating level. The magnitude or frequency of the required flood discharges will vary with the hazard classification, size, and drainage area of the project.

#### A) Freeboard Design Flood

The specified freeboard design flood represents the greatest flood the dam must be designed to accommodate. The flood must be passed without overtopping of the dam and endangering its safety or the dam must be designed to withstand such overflow. Some erosion damage in earth emergency spillways will be tolerated, provided the safety of the dam would not be compromised.

For dams with emergency spillways, the top of dam elevation after settlement shall not be less than the highest peak pool elevation reached during the freeboard design flood. For dams without an emergency spillway, the top of dam elevation shall be two feet higher than the peak flood elevation expected to occur during passage of the freeboard design flood, unless it

<sup>1</sup> This chapter is substantively identical to 567--72.3(2)"a", Iowa Administrative Code.



is specifically designed to withstand the overflow.

the 50-year, 24-hour precipitation.

In the following circumstances, the indicated freeboard design flood will be used:

1) All High Hazard Dams: The Probable Maximum Flood.

2) All Moderate Hazard Dams, and Low Hazard Dams Classified as Major Structures: One-half (0.5) of the Probable Maximum Flood (a flood hydrograph produced by multiplying the ordinates of the PMF hydrograph by a factor of 0.5).

3) Low Hazard Dams not Classified as Major Structures:

a. Where the height of the emergency spillway crest\* measured above the elevation of the channel bottom at the centerline of the dam (in feet) multiplied by the total storage volume (in acre-feet) to the emergency spillway crest elevation\* is between 3,000 and 30,000, the flood shall correspond to the rainfall calculated from the following formula developed by the USDA Soil Conservation Service.

$$\text{Rainfall} = P100 + 0.12 (PMP - P100)$$

b. Where the height of the emergency spillway crest\* measured above the elevation of the channel bottom at the centerline of the dam (in feet) multiplied by the total storage volume (in acre-feet) to the emergency spillway crest elevation\* is less than 3,000, the flood shall be that resulting from

#### B) Principal Spillway Design Floods and Discharge Capacity

The principal spillway is normally a concrete or metal conduit or structure which conveys water through or around the dam. Its size and discharge capacity are governed primarily by the following factors: the need to control flood discharges downstream from the dam, and the need to limit both the depth to which floodwaters are impounded and the length of time for which they are impounded. Related to these factors is the need to limit the frequency of operation of emergency spillways.

Except where special considerations must be addressed, the criteria listed below shall apply to the design of principal spillways. The design floods indicated must be passed by the principal spillway without need for operation of an emergency spillway.

##### 1) Design Floods

a. High Hazard Dams - the 100-year flood.

b. Moderate Hazard Dams - the 50-year flood.

c. Low Hazard Dams with drainage areas of 250 acres or more - the 25-year flood.

d. Low Hazard Dams with drainage areas less than 250 acres - the 10-year flood.

2) The spillway discharge capacity shall be sufficient to evacuate at least 80% of the volume of water temporarily stored during the principal spillway design flood within 10 days.

Where this cannot be accomplished, the emergency spillway and freeboard design flood routings shall be made

beginning with the impoundment level at the 10 day drawdown elevation.

- 3) For dams with emergency spillways of structural concrete or which are excavated into sound rock, a higher frequency of use, and therefore a lower principal spillway design flood, may be permitted if flood control or dam safety would not be adversely affected.

\*For dams without emergency spillways, the storage volume and height shall be determined by measuring to the top of dam elevation.

#### C) Rainfall Depth and Distribution

Precipitation values for various frequency storm events: 10, 25, 50, 100-year and PMP are contained in the Iowa Department of Agriculture and Land Stewardship publication, Climatology of Iowa Series #2, Revised, Iowa Rainfall Frequencies by Paul Waite. Ten day rainfall amounts are contained in the National Weather Service publication, Technical Paper No. 49.

Some acceptable methods of distributing the rainfall in Iowa are found in the U.S.D.A. Soil Conservation Service publication, TR-60, Earth Dams and Reservoirs; and the Illinois State Water Survey publication, Time Distribution of Rainfall In Heavy Storms by F. A. Huff.

#### D) Rainfall Losses

Conservative loss rates (interception, infiltration, etc.) and antecedent moisture conditions should be used in computing rainfall excess. Also, when applicable, snowmelt runoff rates should be estimated.

The Soil Conservation Service (SCS) weighted curve number method is acceptable for determining rainfall

losses and is explained in National Engineering Handbook Section 4 Hydrology, SCS, 1972.

#### E) Storm Duration

Criteria and guidelines for developing design storms from rainfall events are as follows:

- 1) The critical duration storm, or the storm which results in the highest water level in the impoundment, shall be used in determining the freeboard design flood for a high hazard dam.
- 2) Six hour storms are recommended for determining the freeboard design flood for dams designated in paragraphs A(2) and A(3)"a" of this chapter except where the time of concentration exceeds six hours. The 24-hour storm is recommended for dams designated in paragraph A(3)"b" of this chapter.
- 3) Twenty-four-hour (24-hour) or 10-day storms are recommended for developing principal spillway design floods.

### CHAPTER IV

#### HYDRAULIC AND STRUCTURAL CRITERIA AND GUIDELINES FOR SPILLWAYS

The following criteria and guidelines are design considerations which will be used by the department to insure that spillway structures are capable of functioning safely and efficiently and of resisting the forces to which they may be exposed during the life of the structure.

- A) Spillways should be designed to operate safely for the life of the structure and at the discharges and pressures which would be experienced under all normal or flood flow conditions including the freeboard design flood.

- B) Anti-seepage collars or other means of piping and seepage control (e.g., drainage diaphragms), anti-vortex devices, trash racks or other inlet debris control measures, and outlet stilling basins should be provided for all conduits unless evidence can be presented establishing they are not necessary.
- C) For dams where a conduit is proposed to serve as the principal spillway, suggested minimum sizes of the principal spillway conduit for the indicated type of structure are as follows:
- 1) High Hazard Dams and Moderate Dams classed as Major Structures - 36-inch inside diameter.
  - 2) Moderate Hazard Dams not classed as Major Structures and Low Hazard Dams which are classed as Major Structures - 24-inch inside diameter.
  - 3) Low Hazard Dams not classed as Major Structures but which have drainage areas of 250 acres or more - 18-inch inside diameter.
  - 4) Low Hazard Dams with drainage areas under 250 acres - 12-inch inside diameter.
- These minimum sizes are applicable to dams with emergency spillways or which are designed for overtopping only. For dams without emergency spillways, substantially larger conduit sizes with special provisions against plugging will normally be required.
- D) Drop inlets (risers) should have an inlet cross-sectional area at least 1.5 times that of the conduit and should be constructed of comparable materials.
- E) Conduits and risers should be of sufficient strength and have adequate joints to withstand all anticipated external and internal pressures without damage or leakage, with provision made for vertical settlement. Conduits should be cambered where significant settlement of the overlying embankment is anticipated. Articulated or bell joints should be provided as necessary to accommodate the maximum elongation estimated to occur during the life of the structure. Risers must be designed to counteract buoyant forces.
- F) Corrugated metal pipe conduits and risers should be close riveted with watertight connecting bands and should be asbestos treated and asphalt coated, or given equivalent protection. Cathodic protection shall be provided in corrosive soils. Corrugated metal pipe (CMP) conduits are not recommended for high hazard dams, moderate hazard dams classed as major structures, or where the height of earth fill over the conduit exceeds 25 feet.
- G) Concrete conduit and drop inlet (riser) design using precast pipe sections should specify reinforced concrete pressure pipe.
- H) Open concrete spillways, concrete box conduits, and concrete flumes or chutes should have longitudinal curbs or raised joints which will prevent contact by normal flows with the construction joint between the floor and wall slabs. Seepage barriers, drainage blankets and drains should be installed where needed to maintain hydraulic flow integrity through the structure and to accommodate anticipated settlement or elongation in the longitudinal or transverse directions.
- I) Emergency spillways should be capable of safely conveying excess flood flows around or through the dam. They should not operate except at floods greater than the principal spillway design flood.

J) Earth emergency spillways should be subject to the following minimum size requirements at the control section:

- 1) Minimum bottom width - 10 feet.
- 2) On Major Structures, minimum depth - 3 feet. On other structures, minimum depth - 2 feet. (Elevation of top of dam minus elevation of emergency spillway crest.)
- 3) The profile through the emergency spillway should be horizontal for at least 30 feet through the crest control section.
- 4) Exit channel slopes should not be less than 1% or greater than 10%, but should provide for maintaining critical depth control at the crest.

K) For dams where substantial erosion in the emergency spillway would pose the risk of a dam failure, the flow velocities during the freeboard design flood should be non-erosive. Where such erosion would pose no substantial risk of failure, the flow velocities should be non-erosive at the discharge which occurs when flow through the control section is at 30% of the maximum depth. On vegetated spillways, the non-erosive velocity should be determined assuming the vegetation is well established.

L) Emergency spillways should be constructed in undisturbed soil wherever possible. Where no viable alternative is available, they may be constructed on fill as a ramp spillway.

M) Smooth transitions in horizontal and vertical alignment should be provided at and between the inlet, the control at the crest and the outlet sections of emergency spillways.

N) All spillways should discharge a safe

distance from the toe of the dam, and the inlets and outlets should be so located and aligned as to minimize risk of erosion damage to the dam or of damage to downstream buildings, roads, dams or other structures.

O) An adequate energy dissipation structure (stilling basin) or an alternative acceptable method should be incorporated at the outlet of all structural spillways. On major structures, uplift analysis and arching requirements should be considered.

#### CHAPTER V EMBANKMENTS

The earth embankment of a dam should be designed and built according to the following criteria and guidelines.

A) Foreslopes and Backslopes. Embankments should be built of suitable materials and with stable slopes. Foreslopes should not be steeper than 3:1 (horizontal to vertical) in till or loess soils below the permanent water level. Above the permanent water level, foreslopes should not be steeper than 2.5:1 in till soil or 3:1 in loess soil. Backslopes should not be steeper than 2.5:1 in till soils or 3:1 in loess soils. Steeper foreslopes or backslopes may be used if justified by soil tests and stability analysis.

B) Settlement Allowance. A minimum vertical settlement allowance of five percent of the depth of fill should be provided unless a lesser amount is justified by soil tests.

C) Top Width. The minimum embankment top width should be 14 feet for dams 25 feet high or higher. As a rule of thumb, the top width could be reduced by two feet for every five feet of reduction in the height of the dam to a minimum width of eight feet. The top width of dams with roads across the crest should be consistent with

normal roadway design practices, including roadway and shoulders.

- D) Core Trench. Core trenches should be located approximately along the centerline (axis) of the earth fill. It should be continuous across the base of the fill extending into and up the side slopes of the dam abutments to normal reservoir level. The core trench should be excavated to a minimum depth of five feet or until a suitable base material is reached. The base width should be that which will accommodate excavating equipment, but not less than eight feet. The side slopes of the core trench should not be steeper than 1:1, regardless of depth or width of base. Impervious material shall be used in backfilling the core trench.

- E) Wave Erosion Protection. On the upstream face of the dam, a horizontal bench or berm at least 10 feet wide usually should be provided at the normal pool elevation to limit damage from wave erosion. On larger impoundments, riprap or other physical means of protection should be considered whether or not the berm is provided.

- F) Site Preparation. All vegetation, sod, stumps, and large roots should be removed from the embankment site, and the ground surface scarified to provide bond with the earth fill. Overhanging banks, pits, or holes should be sloped and graded so slopes do not exceed 1:1, and any other sharp discontinuities in the ground surface shall be smoothed. Special consideration should be given to the removal of sandy or mucky deposits unless otherwise provided for in the design.

In till soils, topsoil should be saved and placed as a surface layer over the finished embankment to provide an adequate seed base in establishing vegetation.

- G) Fill. Fill material should be clean earth containing no appreciable amounts of vegetation, large rock, frozen material or other foreign substances. Fill should not be placed on a frozen foundation or in freezing weather.

Moisture content of the fill should be sufficient to assure adequate compaction. A moisture content slightly higher than optimum is recommended. An above optimum moisture content is desirable from the standpoint of providing a more plastic embankment capable of resisting greater differential settlement without experiencing potentially hazardous cracking. Unless otherwise specified after soil testing, fill should be placed in horizontal lifts not exceeding eight inches extending over the entire fill area and compacted by not less than four overlapping passes by sheepsfoot or rubber tired rollers. Smooth steel rollers or passes by caterpillar tracks are not considered adequate for compaction of earth-fill dams. The surface of the fill should be scarified or roughened if sufficient time elapses between lifts for a crust to develop.

Backfill adjacent to spillway structures and anti-seep collars should be carefully placed and compacted by hand equipment. Heavy equipment shall not pass over conduit structures until two feet of compacted earth cover is in place.

- H) Drains. Internal seepage control drains are recommended for all dams and are normally required on major structures unless soils investigation finds they are not needed. Drains should be capable of preventing saturation of the downstream portion of the embankment by intercepting any seepage through the fill or the foundation and any seepage along structural spillways or conduits.

If springs are encountered during site preparation, drains should be provided to allow a controlled outlet.

I) Seeding. As soon as possible after earth fill for the embankment is completed, the embankment and any other exposed areas should be seeded. Mulch or other means of erosion control can be placed as part of seeding and maintained until vegetation is established. Grass or vegetative species selected for use should be appropriate for the soils and conditions expected at the site. Crown vetch is generally not acceptable for dam embankments or emergency spillways.

J) Riprap. Riprap shall be designed for its expected use and anticipated water velocities. All riprap should be placed on a properly designed bedding unless the gradation of the underlying base material is such that it will not infiltrate through the riprap, or an acceptable filter fabric is used.

K) Groins. Where the embankment foreslopes and backslopes intersect the natural or modified abutment slopes, appropriate groin design and erosion control recommendations should be provided.

Embankments composed of concrete, rock, or other materials, as associated with gravity, rockfill and arch dams, designed in accordance with standards by the U.S. Army Corps of Engineers, U.S.D.A. Soil Conservation Service, or the U.S. Bureau of Reclamation are generally acceptable. These types of dams are not normally constructed in Iowa.

#### CHAPTER VI SPECIAL REQUIREMENTS FOR MAJOR DAM STRUCTURES

Because of the size, public importance, or potential hazard of a major dam structure, a higher level of investigation, design and assurance of proper construction is needed. A major dam structure is defined as a dam meeting any of the following criteria.

1. Any high hazard dam.
2. Any moderate hazard dam with a permanent storage exceeding one hundred (100) acre-feet or a total of permanent and temporary storage exceeding two hundred fifty (250) acre-feet at the top of the dam elevation.
3. Any dam, including low hazard dams, where the height of the emergency spillway crest measured above the elevation of the channel bottom at the centerline of the dam (in feet) multiplied by the total storage volume (in acre-feet) to the emergency spillway crest elevation exceeds 30,000. For dams without emergency spillways, these measurements shall be taken to the top of dam elevation.

As a condition of permit approval, the following items will be required for major dam structures.

- A) A soils and foundation investigation shall be made which includes the evaluation of slope stability requirements, anticipated vertical settlement and horizontal elongation, seepage and underseepage potential, whether cathodic protection is needed for metal pipes, and proper construction practices for the soil types and conditions encountered. Stability evaluation shall include end of construction, steady state seepage and sudden drawdown conditions.
- B) Anticipated sedimentation rates and their impact on the life and usefulness of the impoundment shall be investigated. Sediment storage shall be provided in the volume necessary for continuation of design uses of the impoundment throughout its design life.
- C) A gated low level outlet shall be provided which is capable of draining at least 50 percent of the permanent storage behind the dam within a reasonable length of time. The pipe conduits shall be designed so that

negative pressures will not occur at any point along the system.

- D) In order to assess the degree of threat to life and property located downstream of the dam, a dam breach analysis may be required. The analysis will be made to determine the most adverse failure condition and the resulting peak outflows and water surface elevations downstream of the dam following failure of the dam during the freeboard design storm.

- E) Construction shall be inspected by an engineer registered under Chapter 114 of the Code of Iowa or by a trained inspector under the supervision of the engineer. The engineer shall prepare and certify as-built plans after completion and a report detailing any unusual circumstances encountered during construction and submit them to the Department of Natural Resources, ATTN: Flood Plains.

- F) The applicant, as a condition of the permit, shall submit an annual maintenance and inspection report. The report shall describe maintenance work done since the previous annual report, describe any deficiencies observed in the dam or appurtenant structures, detail the remedial measures necessary and the method and time the applicant proposes to correct the deficiencies found. If there is a change in the land use downstream of the dam, this change should be noted on the annual maintenance and inspection report. The applicant may also be required to provide additional inspections and reports by an engineer or other qualified personnel.

#### CHAPTER VII SPECIFICATIONS

When detailed project specifications are prepared, they should include the following information.

- A) The general provisions, which specify the rights, duties, and

responsibilities of the Owner, Applicant, Applicant's Engineer, and Builder or Contractor, and the prescribed order of the work.

- B) The technical provisions which describe approved work methods, equipment, materials and desired end results.
- C) Special provisions as may be required which describe those technical details that are not usually contained in standard technical provisions.

#### CHAPTER VIII DAM BREACH ANALYSIS

- A) In some cases it will be necessary to evaluate the consequences of a dam failure to verify hazard classification or adequacy of design. A special case of dam breach analysis will involve failure or improper operation of flood control gates or other structures.

- B) Where such evaluations are made by the department's staff, the necessary data will be obtained from topographic maps or other available information. If that information is not adequate, the applicant may be required to obtain additional downstream survey data.

- C) Prediction of the downstream consequences of a hypothetical dam breach requires several component steps: development of the impoundment inflow hydrograph; routing the hydrograph through the impoundment; selecting failure conditions for the structure; calculating the outflow hydrograph from the failed structure; and modeling movement of the flood wave downstream to determine travel time, inundated areas, maximum water surface elevations, etc.

- D) The criteria, methodology, and computer programs developed by the U.S. Corps of Engineers, the National Weather Service, the U.S.D.A. Soil Conservation Service, and the U.S.

Geological Survey for simulating a hypothetical dam failure are, in general, acceptable.

#### CHAPTER IX OPERATING PLAN

For any dam with gates or other moveable structures which must operate or be operated during times of flood or to provide a minimum downstream release rate, a written operating plan shall be prepared. Development of such a plan is considered part of the design process. The following shall be addressed in preparation of the operating plan.

##### A) Responsibility

No operating plan can be expected to work properly unless it can be assured the necessary personnel will be present to operate the equipment, or, in the case of automatic equipment, to monitor it and insure it is functioning properly.

The plan shall identify who is responsible for operating and monitoring the equipment and provide means to assure the necessary personnel are present when needed.

##### B) Operating Circumstances

The circumstances under which operation must occur shall be clearly defined, and a means provided to insure that operating personnel are present when necessary.

##### C) Method of Operation

The means and methods by which operation is to be conducted shall be clearly defined. Included shall be such items as rates and sequences for opening or closure of gates, pool level vs. gate setting tables, etc., as required.

The operating plan shall allow for safe passage of all floods up to and including the freeboard design flood. Flood discharges through the dam

greater than the design peak flood inflows into the impoundment shall not be permitted. In design and analysis, due consideration shall be given to the potential impacts of the operating procedure on both downstream and poolside lands.

The plan should also address low flow situations and should specify a minimum release rate and how it will be provided and maintained.

Consideration shall also be given to and allowance made for the possible failure of or malfunctioning of the equipment.

##### D) Discharge Measurement

A means shall be provided to determine the discharge through the control structures, especially where operation is to maintain a minimum downstream flow. Control setting vs. discharge tables, streamflow gages or other means of obtaining discharge readings shall be provided. The settings of control structures shall be easily read.

#### CHAPTER X LANDS, EASEMENTS, RIGHTS-OF-WAY\*

The determination of lands, easements, and rights-of-way required for the construction, operation and maintenance of a dam project are considered part of the design process. An application for approval of a dam project shall include information showing the nature and extent of lands, easements, and rights-of-way which the applicant has acquired or proposes to acquire for the project. Acquisition of lands, easements or rights-of-way for construction, operation, and maintenance of a dam project shall be consistent with the following criteria.

- A) Ownership or perpetual easements shall be obtained for the area to be occupied by the dam embankment, spillways and appurtenant structures, and the permanent or maximum normal pool.



- B) Ownership or easements shall be obtained for temporary flooding of areas which would be inundated by the flood pool up to the top of dam elevation and for spillway discharge areas.
- C) Easements covering areas affected by temporary flooding or spillway discharges shall include provisions prohibiting the erection and usage of structures for human habitation or commercial purposes without prior approval by the Department of Natural Resources.
- D) In locating the site of a dam and in obtaining easements and rights-of-way, consideration should be given to the impacts which changes in land use downstream of a dam and adjacent to the impoundment could have on the hazard class of the dam, the operation of the dam, and the potential liability of the dam owner.
- E) The applicant may be required to acquire control over lands downstream from the dam as necessary to prevent downstream development which would affect the hazard class of the dam.

\* This chapter is substantively identical to 567--72.3(2)"b", Iowa Administrative Code.

#### CHAPTER XI HYDROLOGIC AND HYDRAULIC DESIGN REFERENCES

##### General

Handbook of Applied Hydrology by Ven Te Chow, McGraw-Hill Book Company, 1964.

Handbook of Applied Hydraulics by David and Sorensen, McGraw-Hill Book Company, 1969.

Handbook of Hydraulics by King and Brater, McGraw-Hill Book Company, 1963.

Water Resources Engineering by Linsley and Franzini, McGraw-Hill Book Company, 1963.

U.S. Department of Interior, Bureau of

##### Reclamation

Design of Arch Dams, 1977.

Design of Gravity Dams, 1976.

Design of Small Canal Structures, 1974; Revised Reprint, 1978.

Design of Small Dams, 2nd Edition, 1973; Revised Reprint, 1977.

Discharge Coefficients for Irregular Overfall Spillways, Engineering Monograph No. 9, 1952.

Hydraulic Design of Stilling Basins and Energy Dissipators, Engineering Monograph No. 25, 1978.

Unitgraph Procedures, 1965.

Interim Guidelines for Preparing Inundation Maps for Areas Downstream of Bureau of Reclamation Dams.

##### Corps of Engineers

##### Engineering Manuals (EM):

EM 1110-2-1411 Standard Project Flood Determinations.

EM 1110-2-1602 Hydraulic Design of Reservoir Outlet Structures.

EM 1110-2-1603 Hydraulic Design of Spillways.

EM 1110-2-1908 Instrumentation of Earth and Rockfill Dams.

EM 1110-2-2200 Gravity Dam Design.

EM 1110-2-2300 Earth and Rockfill Dams General Design and Construction Considerations.

EM 1110-2-50 Low Level Discharge Facilities for Drawdown of Impoundments.

EM 1110-2-1450 Hydrologic Frequency Estimates.

ETL 1110-2-221 Wave Runup and Wind Setup  
on Reservoir Embankments.

Mining Enforcement and Safety Administration

Engineering and Design Manual, Coal Refuse  
Disposal Facilities, 1975.

Soil Conservation Service

National Engineering Handbook:

Section 4 - Hydrology

Section 5 - Hydraulics

Section 11 - Drop Spillways

TR-39 Hydraulics of Broad-Crested Spillway

TR-48 Computer Program for Project  
Formulation-Structure Site Analysis  
"DAMS-2"

TR-49 Criteria for the Hydraulic Design of  
Impact Basins

TR-52 A Guide for Design and Layout of  
Earth Emergency Spillways

TR-55 Urban Hydrology for Small Watersheds

TR-59 Hydraulic Design of Riprap Gradient  
Control Structures

TR-60 Earth Dams and Reservoirs

TR-61 Computer Program for Water Surface  
Profiles

TR-66 Simplified Dam Breach Routing  
Procedure

DN-8 Entrance Head Losses in Drop-Inlet  
Spillways

SMN-1 Tentative Guides for Determining the  
Gradation of Filter Materials

National Weather Service

Technical Paper No. 40 - Rainfall Frequency  
Atlas of the United States (for Duration  
from 30 minutes to 24 hours and Return

Periods from 1 to 100 years), 1961.

Technical Paper No. 49 - Two' to Ten Day  
Precipitation for Return Periods of 2 to  
100 Years in the Contiguous United States,  
1964.

Hydrometeorological Report No. 51 -  
Probable Maximum Precipitation Estimates,  
United States East of the 105th Meridian,  
June, 1978.

DAMBRK: NWS Dam-Break Flood Forecasting  
Model, November, 1979.

Illinois State Water Supply

Precipitation Relations for Use in Dam  
Safety Project by Floyd Huff, 1980.

Time Distribution of Rainfall in Heavy  
Storms by Floyd Huff, 1967.

Iowa Department of Agriculture and Land  
Stewardship

Climatology of Iowa Series #2, Revised,  
Iowa Rainfall Frequencies by Paul Waite,  
1988.

Climatology of Iowa Series No. 3 - Iowa's  
Greatest 24-Hour Precipitation and Related  
Storm Data by Paul Waite and Paul Jaeger.

United States Geological Survey

Bulletin No. 7 - Drainage Areas of Iowa  
Streams by O.J. Larimer; Reprinted, March,  
1974.

Bulletin No. 12 - Floods in Iowa, A  
Comparative Study of Regional Flood  
Frequency Methods by Oscar G. Lara, 1974.

Water Resources Investigation Report  
87-4132 - Method for Estimating The  
Magnitude and Frequency of Floods at  
Ungaged Sites on Unregulated Rural Stream  
in Iowa, by Oscar G. Lara, 1987.

Federal Highway Administration

Hydraulic Engineering Circulars:

HEC No. 10 - Capacity Charts for the Hydraulic Design of Highway Culverts, November, 1972.,

HEC No. 11 - Use of Riprap for Bank Protection, June, 1967.

HEC No. 13 - Hydraulic Design of Improved Inlets for Culverts, August, 1972.

HEC No. 14 - Hydraulic Design of Energy Dissipator for Culverts and Channels, December, 1975.

HEC No. 15 - Design of Stable Channels with Flexible Linings, October, 1975.

Hydraulic Design Series No. 1 - Hydraulics of Bridge Waterways, 2nd Edition, 1970.

Hydraulic Design Series No. 3 - Design Charts for Open-Channel Flow, 1973.

Hydraulic Design Series No. 4 - Design of Roadside Drainage Channels, 1965.

Hydraulic Design Series No. 5 - Design of Highway Culverts, September 1985.

Agricultural Research Service

The SAF Stilling Basin, 1959.

Hydraulics of Closed Conduit Spillways, Parts I - XVII.

Mr. Stokes gave a detailed explanation of the proposed rule.

This was an informational item; no action was required.

NOTICE OF INTENDED ACTION--CHAPTER 63, MONITORING, ANALYTICAL,  
AND REPORTING REQUIREMENTS - EFFLUENT TOXICITY TESTING

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The U.S. Environmental Protection Agency (EPA) has determined that effluent toxicity testing is a scientifically valid approach to control toxics in wastewater discharges. Thus EPA has proposed regulations for states to follow in setting up toxicity testing programs. The proposed rules, representing Iowa's approach to fulfill this EPA requirement, are attached.

- \* It is proposed that all major municipal and industrial dischargers be required to conduct effluent toxicity testing. Minor dischargers may also be required to do effluent toxicity testing based on a case-by-case evaluation.
- \* Facilities will be required to conduct a 48 hour static effluent toxicity test annually.
- \* Positive test results will require quarterly testing.
- \* Following 2 consecutive positive tests or 3 positives out of 5 tests, a toxicity reduction evaluation (TRE) will be required to identify the toxic pollutant, determine its source, and eliminate it from the discharge.
- \* If ammonia or total residual chlorine are the cause of a positive toxicity test, the facility will not be required to do quarterly testing or to conduct a TRE. However, the facility will be expected to meet permit limits for both parameters.

Six Public hearings are scheduled across the state to receive comments on the proposed effluent toxicity testing rules. Approval of the Notice of Intended Action is requested.

(Rule is shown on the following 4 pages)

ENVIRONMENTAL PROTECTION COMMISSION [567]  
Notice of Intended Action

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission for the Department of Natural Resources gives Notice of Intended Action to amend Chapter 60, "Scope of Title - Definitions - Forms - Rules of Practice," and Chapter 63, "Monitoring, Analytical and Reporting Requirements."

The proposed new rules will require all major municipal and industrial dischargers to conduct effluent toxicity testing. Some minor dischargers would also be required to conduct such testing based upon a case by case evaluation of the receiving stream, toxic or deleterious effects of wastewater or industrial contribution to the system, or the complexity of the treatment process. Initially, these facilities will be required to conduct a 48 hour static acute toxicity test annually. Quarterly testing would be required if positive results are detected. Following two consecutive positive tests or three of five positive tests, a toxicity reduction evaluation (TRE) will be required to identify the toxic pollutant, determine its source, and eliminate it from the discharge. Additional effluent dilutions will be required under certain cases of positive test results. If ammonia or total residual chlorine are the cause of a positive test, the facility will not be required to perform quarterly testing or to conduct a TRE. The facility would be expected to meet permit limits for each of these parameters.

These rules are proposed due to EPA revisions of 40 CFR Part 136 to provide for regulations for states to follow in setting up toxicity regulations. These rules are this department's proposal to fulfill EPA requirements for effluent toxicity testing. EPA found through laboratory and field research that effluent toxicity testing is a scientifically valid approach to control toxics in wastewater discharges.

Any interested person may submit written suggestions or comments on the proposed rule changes through November 26, 1990. Such written materials should be directed to Duane Brown, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand, Des Moines, Iowa 50319-0034, or FAX # (515)281-8895. Persons who have questions may contact Duane Brown at (515)281-4701. Persons are also invited to present oral or written comments at public hearings which will be held at 1:00 p.m. on Wednesday, November 7, 1990 in the Opera House, 207 N. Main, Elkader, Iowa; at 7:00 p.m. on Wednesday, November 7, 1990 in the National Guard Armory, Highway 1 and 92, Washington, Iowa; at 1:00 p.m. on Thursday, November 8, 1990 at the City Hall, 19 S. Delaware, Mason City, Iowa; at 1:00 p.m. on Tuesday, November 13, 1990 in the Wallace State Office Building, 900 East Grand, 4th Floor, East Conference Room, Des Moines, Iowa; at 1:00 p.m. on Wednesday, November 14, 1990 at the Community Center, 530 W. Bluff, Cherokee, Iowa; and at 7:00 p.m. on Wednesday November 14, 1990 at Municipal Utilities, 15 W. 3rd Street, Atlantic, Iowa.

These rules may have an impact upon small businesses.

Copies of these proposed rules may be obtained from Sarah Detmer, Records Center, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand, Des Moines, Iowa 50319-0034.

These rules are intended to implement Iowa Code Chapter 455B, Division III, Part I.

---

ITEM 1. Amend rule 60.2(455B) by adding the following definitions:

567--60.2(455B) Definitions

"Culture water" means reconstituted water used for culturing test organisms.

"Diluted effluent sample" means a sample of effluent diluted with culture water at the same ratio as the dry weather design flow to the applicable receiving stream flow contained in the mixing zone, as allowed in subrule 61.2(4) Regulatory Mixing Zones, including specifically subsections b, c and d.

"Dry weather design flow" means the 30 day average flow which a facility is designed to discharge during dry weather conditions.

"Effluent toxicity test" means to determine the toxicity, of a chemical or chemicals contained in a wastewater discharge, on living organisms in a static 48 hour exposure under laboratory conditions.

"Major" means for municipalities, a facility having a discharge flow or wet weather design flow of 1.0 mgd or greater. For industries it means a facility which is designated by EPA as being a major industry based on the EPA point rating system which uses pounds of wastes discharged for each facility.

"Minor" means all remaining municipal and industrial facilities which have wastewater discharge flows and which are not designated as a major facilities.

"Mortality" means for the purpose of the 48 hours acute toxicity test, death, immobilization, or serious incapacitation of the test organisms.

"Positive test result" means 10% or greater mortality in a 48 hour effluent toxicity test.

"Toxicity reduction evaluation (TRE) program" means a stepwise process, EPA document/600/2-88/062. which combines effluent toxicity tests and analysis of the chemical characteristics of the effluent to determine the cause of the effluent toxicity and/or the treatment methods which will reduce the effluent toxicity.

"Valid effluent toxicity test" means there is not greater than 10% mortality in the control test.

ITEM 2. Renumber rules 63.4 through 63.10 as 63.5 through 63.11. Adopt new rule 63.4(455B) effluent toxicity testing requirements in permits.

567--63.4(455B) Effluent toxicity testing requirements in permits.

63.4(1) Effluent toxicity testing. All major municipal and industrial dischargers shall be required to carry out effluent toxicity testing. Minor dischargers may be required to conduct effluent toxicity tests based on a base-by-case evaluation of the impact of the discharge on the receiving stream or industrial contribution to the system. All dischargers required to conduct effluent toxicity tests shall conduct, as a minimum, one valid effluent toxicity test annually.

63.4(2) Testing procedures. Dischargers shall be required to conduct effluent toxicity tests in accordance with the following general requirements:

a) The effluent toxicity tests shall be performed using a 24-hour composite sample of the effluent collected after all treatment units prior to discharge. All composite samples shall be delivered to the testing laboratory within 24-hours of collection and all tests must commence within 36-hours following sample collection. All effluent toxicity test results shall be submitted to the department, on form number 542-1381 provided by the department, within 30 days of completing the test.

b) All effluent toxicity tests shall be conducted using the test methodologies and protocols described within "Standard Operating Procedure: Effluent Toxicity Testing, Iowa Department of Natural Resources," September 1990. Laboratories performing the effluent toxicity tests shall have a quality assurance plan.

c) All effluent toxicity test shall be performed using the water flea (*Cerodaphnia dubia*), and the fathead minnow (*Pimephales promelas*).

d) Effluent toxicity tests shall include, at a minimum, two different concentrations of effluent. One test shall consist of 100% effluent, and a second test shall be a diluted effluent sample as defined. A control test, consisting of 100% culture water for each respective organism shall also be used. The test shall last for 48 hours at which time the percent mortality will be determined for all tests.

e) Test interpretation. All effluent toxicity test shall be of the pass/fail type. A positive test result in the diluted effluent sample will result, as a minimum, in quarterly effluent toxicity testing. When the diluted effluent sample is not positive, but the 100% effluent test exhibits a positive test result, additional effluent dilutions shall be required during the next required effluent toxicity test as follows:

1. There shall be two additional effluent dilutions tested when the diluted effluent sample is equal to or greater than 50% effluent; or

2. There shall be three additional effluent dilutions tested when the diluted effluent sample is less than 50% effluent.

3. In each case the additional test dilutions (2 or 3) shall be between the original diluted effluent sample and the 100% effluent sample with equal percentage increments between each dilution.

63.4(3) Following a valid effluent toxicity test with a positive test result the following requirements shall apply:

a) The discharger shall be required to conduct quarterly effluent toxicity tests until three successive tests are negative, after which the normal annual testing shall be resumed.

b) If the discharger has two successive positive valid effluent toxicity test results; or three positive tests results out of five valid effluent toxicity tests, the discharger will be considered in violation of its NPDES permit and shall be required to conduct a Toxicity Reduction Evaluation (TRE). The discharger may also be required to carry out some instream monitoring in conjunction with the TRE. At any time during the course of conducting a TRE, there are three consecutive negative follow-up toxicity test results for the diluted effluent sample, the facility will be considered in compliance and work on the TRE may cease. Annual testing for effluent toxicity shall then resume.

c) When the pretest chemical analysis for unionized ammonia nitrogen ( $\text{NH}_3\text{-N}$ ) or total residual chlorine (TRC) on the diluted effluent sample exceed the concentrations given below, a positive test result is likely to have been caused by high concentrations of  $\text{NH}_3$  or TRC and follow-up effluent toxicity testing will not be required.

- Unionized Ammonia Nitrogen - 0.9 mg/l

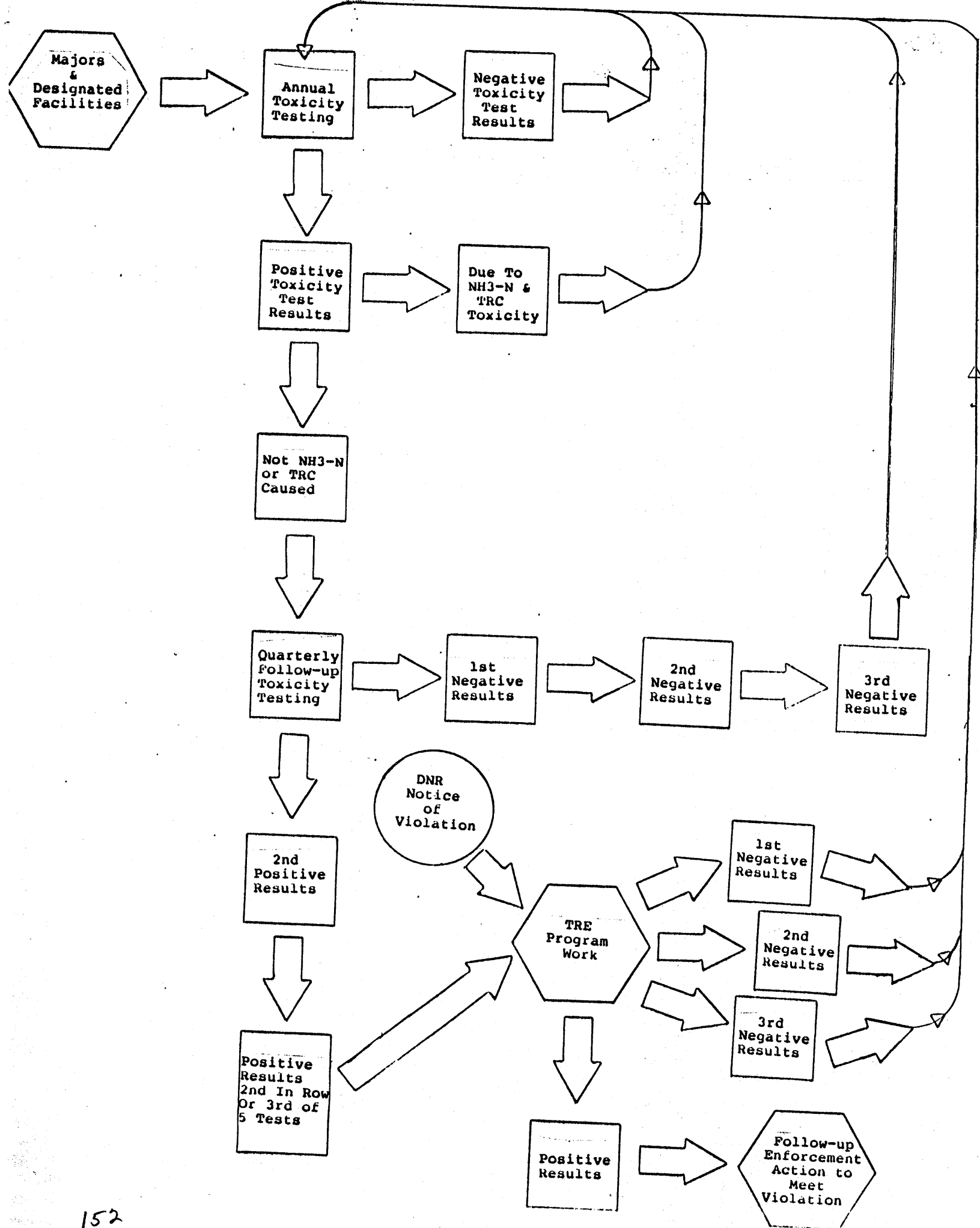
- TRC - 0.1 mg/l

---

Date

---

Larry J. Wilson, Director





Mr. Stokes gave a detailed explanation of the rules. He related that the rules have been reviewed by a testing review group, a subgroup of a wastewater review committee the department has worked with for a number of years.

William Ehm asked if these rules are an EPA requirement.

Mr. Stokes replied that they are an EPA requirement and that if they are not adopted soon EPA will begin rejecting permits for major dischargers.

*Motion was made by William Ehm to approve Notice of Intended Action---Chapter 63, Monitoring, Analytical, and Reporting Requirements - Effluent Toxicity Testing. Seconded by Mike Earley. Motion carried unanimously.*

PROPOSED RULE--CHAPTER 135, ADOPTION OF U.S. EPA RULES ON  
ISSUANCE OF A CERTIFICATE EVIDENCING COMPLETION OF REMEDIATION

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The department is proposing rule amendments to Chapter 135, "Technical Standards for Underground Storage Tanks". The amendments adopt changes made to the federal underground storage tank rules that correct a rule reference and permits another method of overfill prevention. The rule amendments will keep Iowa's rules consistent with federal rules.

A new subrule, 135.7(9), is also proposed that provides for issuance of a certificate by the department to an underground storage tank owner evidencing completion of a remediation action. Section 455B.304 of the Iowa Code requires rules on issuing the certificate.

(Rule is shown on the following 2 pages)

ENVIRONMENTAL PROTECTION COMMISSION [567]  
Notice of Intended Action

Pursuant to the Authority of the Iowa Code section 455B.474, the Environmental Protection Commission gives Notice of Intended Action to amend Chapter 135, "Technical Standards for Underground Storage Tanks." The amendments adopt changes made in the federal underground storage tank regulations by the U.S. Environmental Protection Agency and provides for the issuance of a certificate to the owner of an underground petroleum storage tank evidencing completion of a remediation action by cleaning the site to the then current action standards.

A new method of overfill protection as adopted by the federal regulations is being added to Chapter 135. The proposed rule on issuing a certificate evidencing completion of a remediation mirrors the requirements found in section 455B.304 as amended by House File 2552, Seventy-third General Assembly. The only additions that have been made require that the request for a certificate be made after receiving a letter acknowledging compliance with the action standards from the department, clarification when further remediation can be required, and that the certificate does not constitute a warranty of the property's condition.

Any interested party may file a written statement of position on the subjects covered by these proposed rules no later than . These written comments should be directed to Keith Bridson, Iowa Department of Natural Resources, 900 East Grand Avenue, Des Moines, Iowa 50319-0034, FAX 515/281-8895. Persons or organizations are invited to present written or oral comments a public hearing on these proposed rules which will be held

at 1:00 P.M. in the west half, fourth floor conference room, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa.

These rules are intended to implement Iowa code sections 455B.424 and 455B.304.

---

ITEM 1. Amend 135.5.(1)"c" by revising the first note immediately after the table entitled "Schedule for Phase-in of Release Detection" as follows:  
P = Must begin release detection for all pressurized piping in accordance with 135.5(2)"b"(1)-and-135.5(3)"b"(4):

ITEM 2. Amend 135.3(1)"c"(1)"2" by adding the following paragraph.

2. Overfill prevention equipment that will:

Automatically shut off flow into the tank when the tank is no more than 95% full; or

Alert the transfer operator when the tank is no more than 90% full by restricting the flow into the tank or triggering a high level alarm; or

Restrict flow 30 minutes prior to overfilling, alert the operator with a high level alarm one minute before overfilling, or automatically shut off the flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.

ITEM 3. Add the following new subrule 135.7(9).  
135.7(9) Certificate of completion for a site remediation. Upon a written request of an underground petroleum storage tank owner, the Department of Natural Resources will issue a certificate to the owner evidencing completion of a remediation action by cleaning the site to then current action standards. The following conditions apply:

a. The written request to the department for the certificate must be made after receiving the department's letter acknowledging compliance with current action standards.

b. The certificate will be issued if the department does not order further remediation work to be performed within ninety days of the department's letter acknowledging compliance with current action standards.

c. A person issued a certificate shall not be required to perform further remediation solely because action standards are changed at a later date. Further remediation of the contamination could be required if the action standards in place at the time of certificate issuance are again found to be exceeded.

d. The certificate shall not prevent the department from ordering remediation of a new release.

e. The certificate may be recorded with the county recorder to evidence completion of a remediation in the chain of title.

f. The certificate will not constitute a warranty of any kind to any person as to the condition, marketability or value of the described property.

---

Date

---

Larry J. Wilson, Director

Mr. Stokes explained the proposed rule.

Rozanne King asked about the rationale of a 30 minute flow restriction prior to overfilling. She added that maybe a 15 minute restricted flow would be more reasonable.

Clark Yeager commented that on page 2, under d, "release" needs to be better defined.

This was an informational item; no action was required.

PROPOSED RULE--CHAPTER 136, ADOPTION OF RULE CHANGES MADE IN  
FEDERAL REGULATIONS - FINANCIAL RESPONSIBILITY FOR UST'S

Federal Regulations - Financial Responsibility for UST's  
UST/Adoption of Rule Changes Made in Federal Regulations -  
Financial Responsibility for UST's, Proposed Rule--Chapter 136  
Allan Stokes, Division Administrator, Environmental Protection  
Division, presented the following item.

The department is proposing amendments to Chapter 136, "Financial Responsibility for Underground Storage Tanks". The amendments adopt changes made in the federal underground storage financial responsibility regulations by the U.S. Environmental Protection

Agency. The amendments will keep Iowa's rules consistent with the federal regulations.

The amendments correct errors and add clarification to the current rules. The compliance dates for showing financial responsibility are also being extended one year for petroleum marketers with 13-99 tanks to April 26, 1991 and petroleum marketers with one to twelve tanks and non-marketers to October 26, 1991.

(Rule is shown on the following 4 pages)

ENVIRONMENTAL PROTECTION COMMISSION [567]  
Notice of Intended Action

Pursuant to the Authority of the Iowa Code section 455B.474, the Environmental Protection Commission gives Notice of Intended Action to amend Chapter 136, "Financial Responsibility for Underground Storage Tanks." The amendments adopt changes made in the federal underground storage tank regulations by the U.S. Environmental Protection Agency.

The majority of the amendments correct errors and add clarification to current rules. The compliance dates for showing financial responsibility are being extended one year for petroleum marketers with thirteen to ninety-nine tanks to April 26, 1991, and petroleum marketers with one to twelve tanks and non-marketers to October 26, 1991.

Any interested party may file a written statement of position on the subjects covered by these proposed rules no later than . . . . . These written comments should be directed to Keith Bridson, Iowa Department of Natural Resources, 900 East Grand Avenue, Des Moines, Iowa 50319-0034, FAX 515/281-8895. Persons or organizations are invited to present written or oral comments at a public hearing on these proposed rules which will be held at 1:00 p.m. in the west half, fifth floor conference room, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa.

These rules are intended to implement Iowa code section 455B.424.

---

ITEM 1. Amend subrule 136.2(3) as follows:

136.2(3) All petroleum marketing firms owning 13-99 USTs at more than one facility: ~~April-26;-1990~~ April 26, 1991.

ITEM 2. Amend subrule 136.2(4) as follows:

136.2(4) All petroleum UST owners not described in subrules 136.2(1) to 136.2(3), including all local government entities; ~~October-26;-1990~~ October 26, 1991.

ITEM 3. Amend rule 567--136.3(455B) Definition of Terms by adding the following new definition.

"Termination" under 136.8(2)"a" and "b" means only those changes that could result in a gap in coverage as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy date for compliance established in rule 136.2(455B).

ITEM 4. Amend subparagraph 136.8(2)"a"(1) as follows:

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering the following underground storage tanks:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to subrule 567--135.3(3) and the name and address of the facility.]

for [insert: "taking corrective action" and /or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or nonsudden accidental releases" or "accidental--releases" "accidental release; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy"; if coverage is different for different tanks or locations, indicate the type of coverage

applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of this policy is [date].

ITEM 5. Amend "d" in subparagraph 136.8(2)"a"(2) as follows:

d. Cancellation or any termination of the insurance by the ["Insurer" or "Group"] except for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured. Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of 10 days after a copy of such written notice is received by the insured.

ITEM 6. Amend paragraph "e" in 136.8(2)"a"(2) as follows:

e. ~~The insurance covers claims for any occurrence that commenced during the term of the policy that is discovered and reported to the ["Insurer" or "Group"] within six months of the effective date of the cancellation or termination of the policy.~~ The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the previous policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.

I hereby certify that the wording of this instrument is identical to the wording in subrule 567--136.8(2) "ENDORSEMENT" and that the ["Insurer" or "Group"] is [licensed to transact business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states].

[Signature of authorized representative of Insurer or Risk Retention Group]

[Name of person signing]

[Title of person signing], Authorized Representative of [name of Insurer or Risk Retention Group]

[Address of Representative]

ITEM 7. Amend subparagraph 136.8(2)"b"(1) as follows:

1. [Name of Insurer or Risk Retention Group], [the "Insurer" or "Group"], except for the non-payment of premium or misrepresentation by the insured, as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s):

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to subrule 567--135.3(3) and the name and address of the facility.]

for [insert: "taking correction action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental--releases" "accidental release; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of this policy is [date].

ITEM 8. Amend paragraph "d" in 136.8(2)"b"(2) as follows:

d. Cancellation or any termination of the insurance by the ["Insurer" or "Group"] except for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured. Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of 10 days after a copy of such written notice is received by the insured.

ITEM 9. Amend paragraph "e" in 136.8(2)"b"(2) as follows:

e. ~~The insurance covers claims for any occurrence that commenced during the term of the policy that is discovered and reported to the ["Insurer" or "Group"] within six months of the effective date of the cancellation or termination of the policy.~~ The insurance covers claims otherwise covered by the policy that reported to the ["Insured" or "Group"] within six months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.

I hereby certify that the wording of this instrument is identical to the wording in subrule 567--136.8(2) "CERTIFICATE OF INSURANCE" and that the ["Insurer" or "Group"] is [licensed to transact business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states].

[Signature of authorized representative of Insurer or Risk

Retention Group]

[Name of person signing]

[Title of person signing], Authorized Representative of [name of Insurer or Risk Retention Group]

[Address of Representative]

ITEM 10. Rescind paragraph 136.14(1)"b" and replace it with the following: Termination of insurance or risk retention group coverage, except for non-payment or misrepresentation by the insured, or state funded assurance may not occur until 60 days after the date on which the owner or operator receives notice of termination, as evidenced by the return receipt. Termination for

non-payment of the premium or misrepresentation by the insured may not occur until a minimum of 10 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.

---

Date

---

Larry J. Wilson, Director

Mr. Stokes gave a detailed explanation of the rules.

This was an informational item; no action was required.

PROPOSED CONTESTED CASE DECISION--DONALD RAY MAASDAM

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

On April 2, 1990, the department issued Administrative Order 90-SW-07 to Donald Ray Maasdam. That action required the Appellant to stop the accumulation and storage of tires until he obtained a permit, to properly dispose of the accumulated tires, and to pay a \$1000 penalty. That action was appealed and the matter proceeded to administrative hearing on August 9, 1990. The hearing officer issued the attached Proposed Findings of Fact, Conclusions of Law, and Order on August 22, 1990. The decision affirms the Department's Order with the exception of rescinding the penalty.

Either party may appeal the Proposed Decision to the Commission. In the absence of an appeal, the Commission may decide on its own motion to review the Proposed Decision. If there is no appeal or review of the Proposed Decision, it automatically becomes the final decision of the Commission.

Mr. Murphy stated that this case involves an Administrative Order the department issued regarding the accumulation of tires. The matter proceeded to hearing and a decision was issued on August 22, 1990. The decision affirms the department's order but



rescinds the penalty. He noted that staff has not determined whether or not they will appeal that part of the order although there is concern with the reasoning in this case as to why the penalty was rescinded.

Clark Yeager asked why the Administrative Law Judge is turning down the penalty portion of the Order.

Mr. Murphy replied that it is the Administrative Law Judge's belief that Mr. Maasdam is unable to pay it.

Commissioner Yeager asked if Mr. Maasdam accumulated the tires.

Mr. Murhpy stated that the person who leased the property accumulated the tires and has since passed away. He added that Mr. Maasdam did own the property during this time and still owns the property.

Mike Earley commented that a high percentage of people are getting the penalty either reduced or rescinded and he asked if there is something that the staff can do to reverse that trend. He added that it seems if a person goes to Administrative Hearing they will get the penalty either rescinded or reduced, and if that is appealed they will get a rehearing, and he personally feels it is a trend that is leading the department to disaster.

Mr. Murphy stated that a person is entitled to an appeal. He explained that when the Order is written staff looks at the four factors, those being: 1) the culpulability; 2) cost-savings; 3) gravity; and 4) mitigating factors. The hearing officer uses the same process and sometimes reduces the penalty.

Richard Hartsuck stated that the explanation for rescinding the penalty in shown as entirely mitigating factors.

Mr. Murphy stated that the rule says the penalty can be reduced by \$100 and so this really does not follow the rule.

Commissioner Hartsuck suggested that the department challenge the decision to reduce the penalty by \$1000.

Further discussion followed as to Commission options.

*Motion was made by Mike Earley to review the decision and direct the legal staff to develop a brief to support the Commission's interest in restoring the fine. Seconded by Richard Hartsuck.*

Gary Priebe stated that he will abstain from voting as he knows the involved party and therefore has a conflict of interest.

*Motion carried unanimously with the exception of Commissioner Priebe abstaining.*

REFERRALS TO THE ATTORNEY GENERAL

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the Commissioners and are confidential pursuant to Iowa Code section 22.7(4).

Wayne-Ringgold-Decatur County Solid Waste Management Commission - solid waste

Dwight Brockhouse (Muscatine) - water pollution/solid waste

Great Dane Fertilizer, Inc. (Audubon) - water pollution

City of Des Moines - wastewater/solid waste

The New Shack Tavern (Cedar Rapids) - drinking water (tabled item)

Don Ervin (Ft. Dodge) - solid waste

Ron Condon/ Dwight Lybarger (Mills County) - tanks/cleanup (counterclaim/cross claim)

Wayne-Ringgold-Decatur County Solid Waste Management Commission

Mr. Murphy stated that this matter involves a request from staff that this be referred due to operational violations and permit application deficiencies. He added that in 1986 and 1988, Administrative Orders were issued on prior operational deficiencies involving cover requirements and leachate problems. Since that time there have been additional violations which included failure to submit a permit application along with necessary hydrogeologic information in a timely manner. Staff is recommending referral due to the continuance of operational deficiencies and the fact that prior Administrative Orders have been issued.

APPOINTMENT - CINDY TURKLE

Cindy Turkle, Howard R. Green Company, stated that she is representing the Wayne-Ringgold-Decatur County Solid Waste Management Commission. She presented background on the landfill commission made up of three counties and 33 municipalities. Ms. Turkle stated that some of the landfill commission's problems were due to changing contract operators, not having stipulated guidelines for the paperwork, misunderstanding on who was sending in reports, and lack of knowledge of regulations along with changing regulations. Ms. Turkle stated that they are now doing a good job of controlling the litter and are trying to correct the

erosion problems. She added that the hydrology study is underway and, after completion of the study, leachate control is the next step to be undertaken. She noted that the recent inspection report indicated only minor violations which shows they are greatly improving.

Discussion followed.

Clark Yeager commented that it looks like the penalty in this case is higher than what other cases were with a first offense.

Mr. Murphy stated that most of the department settlements have been in the same penalty range with similar type of cases. He noted that the two higher penalties shown as a comparison in the litigation report were for second court orders. He reminded the Commission that there have been two prior Administrative Orders due to an accumulative situation over a period of time.

*Motion was made by Clark Yeager for referral to the Attorney General's Office with the stipulation that the penalty not exceed the lower amount of the recommended range. Seconded by William Ehm. Motion carried unanimously.*

#### City of Des Moines

Richard Hartsuck stated that he will abstain from discussion and vote in this case because of his residence in Des Moines and also because of some past activities relative to this.

Mr. Murphy stated that referral is being asked for the City of Des Moines because of continued problems with the handling of their sludge generated by their wastewater treatment facility. He related that an earlier referral required a five year plan for the city to address handling of the sludge in a more appropriate manner. Mr. Murphy noted that this spring and summer the city generated tremendous amounts of sludge which they did not get land applied or handled and they accumulated sludge on inappropriate sites. Additionally, there were instances of sludge runoff. Also, the city also constructed additional storage facilities without the appropriate permits.

#### APPOINTMENT - GEORGE MILLS

George Mills, Mayor of West Des Moines, stated that his city is an ICA member and he is a member of the ICA Board. He presented an overview of the ICA and governmental cooperation. Mr. Mills related that legal action against the city of Des Moines is a mistake and things only get done when everyone works together. He urged the Commission not to refer this matter, but to let ICA, the Des Moines City Council and DNR staff work together to solve these problems for the public good.

APPOINTMENT - JOHN "PAT" DORRIAN

John "Pat" Dorrian, Mayor of Des Moines, addressed the Commission stating that the problem may not be resolved by putting the City and DNR on opposite sides of a lawsuit. He pointed out the city and ICA's accomplishment in completing construction of the new wastewater treatment plant ahead of schedule. He explained that an unusually wet spring and summer and a large increase in sludge production hindered the city's disposal efforts. Also, there were problems with the city staff not keeping the city council informed. Mayor Dorrian stated that referral is not the answer and asked the Commission to allow the city, ICA and DNR staff to work out a solution. He noted that the city will take corrective actions to prevent reoccurrence of these problems and will make a monthly report of their progress. He asked the Commission to put this back on the agenda in February and review what the city has done. Mayor Dorrian pointed out that it creates a big problem for the city when neighboring communities impose stricter rules than DNR to control where sludge can or cannot be spread.

A lengthy discussion followed regarding problems encountered by the city; past violations; and the city's failure to provide a plan to see into the future.

*Motion was made by William Ehm for referral to the Attorney General's Office. Seconded by Gary Priebe.*

*Chairperson Mohr requested a roll call vote. "Aye" vote was cast by Commissioners Ehm, King, Priebe, Yeager and Mohr. "Nay" vote was cast by Commissioner Earley. Motion passed on a vote of 5-Aye to 1-Nay with Commissioner Hartsuck abstaining.*

Richard Hartsuck asked if when the state sets regulations it pre-empts the right of local communities to set stricter regulations.

Mr. Murphy responded that, generally, local ordinances may be more stringent.

Commissioner Hartsuck related that he will address this issue under the General Discussion item.

Dwight Brockhouse

Mr. Murphy circulated photos showing where fireworks were dumped into Mad Creek at Muscatine. He stated that it appeared to be intentional dumping of solid waste and the fact that it got into the creek violates water pollution laws.

Chairperson Mohr stated that she will abstain from discussion and vote in this case as she knows the involved party and therefore has a conflict of interest.

APPOINTMENT - DWIGHT BROCKHOUSE

Dwight Brockhouse, owner of Brockhouse Well and Pump and part owner of a novelty distributing company, stated that Muscatine was flooded on June 16, and he circulated photos of his van which washed away. He related that it was necessary to load the fireworks on the truck in order to get to anything else of value. He stated that there was debris all over the parking lot and they did not throw fireworks into the creek, they were thrown on to the creek bank, all the while it was raining very hard. He added that the truck shown in the photos had approximately \$9000 worth of fireworks on it which were washed away with the truck. Mr. Brockhouse stated that the police, the fire department, and the local DNR representative came out, and DNR indicated that since the police was filing charges they were not going any further with it. Mr. Brockhouse related that this has been demoralizing and he would like to see an end to it.

William Ehm asked why they dumped the fireworks on the creek bank if there were warnings that another flood was forthcoming.

Mr. Brockhouse indicated that in the rush of things he just didn't think.

Clark Yeager asked how long the fireworks were on the creek bank.

Mr. Brockhouse replied that they were there for about one hour.

William Ehm stated that he is sympathetic over their loss, but most of the people around the board have had some sort of similar disaster, and he finds it difficult to believe that there was absolutely nothing else to be done other than dumping on the creek bank.

*Motion was made by William Ehm for referral to the Attorney General's Office. Seconded by Richard Hartsuck.*

Discussion followed as to why this was handled as a referral rather than an Administrative Order.

Gary Priebe stated that there are extenuating circumstances and he thinks the penalty is way out of line. He agrees that the fireworks should not have been dumped on the riverbank, but related that Mr. Brockhouse was worried about his income not what was already gone, and he made an error in judgement.

Clark Yeager indicated that he will not vote for referral with the penalty as recommended.

*Motion was made by Clark Yeager to go into closed session pursuant to Iowa Code Section 21.5(1)c to discuss strategy with counsel in matters that are in actual or potential litigation where its disclosure would be likely to prejudice the position of*

the governmental body in that litigation. Seconded by Gary Priebe.

Chairperson Mohr requested a roll call vote. "Aye" vote was cast by Commissioners Earley, Ehm, Hartsuck, King, Priebe and Yeager. Motion carried on a vote of 6-Aye with Chairperson Mohr abstaining.

Motion was made by Rozanne King to adjourn closed session and return to open session. Seconded by William Ehm.

Chairperson Mohr requested a roll call vote. "Aye" vote was cast by Commissioners Earley, Ehm, Hartsuck, King, Priebe and Yeager. Motion carried on a vote of 6-Aye with Chairperson Mohr abstaining.

Motion was made by Gary Priebe to amend the referral to the Attorney General's Office with the stipulation that it be handled as a civil case and that the penalty be one-fifth of the recommended amount. Seconded by William Ehm. Motion carried unanimously with the exception of Charlotte Mohr abstaining.

#### Don Ervin

Mr. Murphy stated that this matter has been before the Commission on review of a hearing officer decision of an Administrative Order in February, 1990, and also on a referral to the Attorney General for collection of a penalty. It involves a tire storage and processing facility in Fort Dodge, Iowa. The department had dealings with Mr. Ervin over the last two years and a permit was issued in June, 1990. Mr. Murphy stated that all through the process the department has had concerns over the manner in which tires were being stored, along with uncertainty about Mr. Ervin's ability to process the number of tires he was taking in. He noted that, twice, the department gave Mr. Ervin additional time to resolve his problems and little progress has been made. Deficiencies continue in about every regard and referral is recommended.

#### APPOINTMENT - DON ERVIN

Don Ervin, owner of Midwest Research & Recycle, Inc., presented a history of his company and dealings with the department in regards to rules and regulations, meetings he had with department staff and others, and permit requirements and compliance. He implied that other companies are shredding without a permit and it took him five months to get one, then he had to be in compliance within 30 days. He commented that his company applied for a grant from the state and was turned down. Mr. Ervin stated that he now has a market for recapped crumb rubber and is hauling about 30 tons/month, and he needs 200,000 tires on hand

to operate. In conclusion, he added that fire lanes are being put in and it will cost \$39,000 to fence the place. He related that if the DNR will let them alone they can get their merger going and complete the necessary requirements.

#### APPOINTMENT - JOHN SCIEGZINSKI

John Sciegzinski, attorney representing Don Ervin, stated that he has a problem with Chapter 455B, under which the department is citing Mr. Ervin, in that it talks about solid waste disposal, not tire disposal. Mr. Sciegzinski contends that Chapter 455B does not apply to tires. He pointed out that Mr. Ervin has reduced his tires by one-half and is now down to 250,000 tires. He noted that it is not possible to reduce 250,000 tires to 40,000 within 30 days, as requested by the department. Mr. Sciegzinski stated that Mr. Ervin agreed to reduce the tires to 40,000 because of inability to do anything else, but now he will be cited for not complying with the permit. He reiterated he does not feel the permit is applicable as there is no provision for recycling tires, much the same as a salvage yard that recycles cars. Mr. Sciegzinski stated that, in his opinion, the state should be looking at a bonding situation to cover the state in case a person walks away.

Clark Yeager commented that perhaps there is a need for the department to require a bond for tire disposal sites.

Gary Priebe asked Mr. Murphy to explain the circumstances regarding this case.

Mr. Murphy explained that there were two days of hearing and the hearing officer rendered a lengthy decision upholding the regulatory authority of the department, which was then reviewed by the Commission and not reversed. The law is that his facility is regulated by a solid waste permit requirement. He added that there have been several other administrative decisions since then and Mr. Ervin has the opportunity to test it in court if he wants to carry through with the argument that he does not need a permit. Mr. Murphy noted that Mr. Ervin has been given benefit of the doubt and a lot of leeway. He related that a time extension was given several times and now Mr. Ervin states that he never could have complied in the first place.

#### COMMISSIONER ABSENT

Mike Earley left the meeting at this point due to another commitment.

Discussion followed regarding the regulation of junk yards and car crushers.

Clark Yeager asked if the department makes the same demands on similar businesses in the state as they have made on Mr. Ervin.

Director Wilson commented that there has been absolutely nothing at all being asked of Mr. Ervin that wasn't asked of RoseBar.

Clark Yeager stated that there is a tire shredding business in Des Moines that he has heard does not have a permit.

Mr. Stokes commented that the Des Moines business is Waste Management Incorporated and they have been put through the full permit drill. He added that they ran for a period of time without without having a paper permit, as did Mr. Ervin, the only difference being they were in complete compliance with the technical requirements, which Mr. Ervin has not been and is not today. Mr. Stokes expanded on the technical requirements for these facilities.

Discussion followed regarding Mr. Ervin's failure to file reports; the number of tires he is allowed to stockpile; and permit requirements.

Clark Yeager stated that he is curious to see if the department is, through the permit, requiring more of Mr. Ervin than of the other two companies. He added that he objects to the wording used by staff on Page 4 of the litigation report.

Director Wilson remarked that the question was already answered, and he related that he objects to the idea of Commissioner Yeager's insinuation that staff lets personalities influence the professional preparation of the litigation reports. He added that he will not get into a censorship situation and tell staff what is, or is not, to be in those reports. He related that he trusts their professional approach.

Chairperson Mohr commented that as she travels the state she has noticed tires all over and the state is in need of this business.

Gary Priebe agreed that the state needs to get rid of tires and if Mr. Ervin can get rid of them the department should bend over backwards to help him do it.

Mr. Stokes explained requirements made in the Administrative Orders. that the State needs people to recycle tires, but what needs to happen is for Mr. Ervin to comply with the permit requirements, the Administrative Consent Orders and all the legal processes that have been held to date.

Discussion followed as to whether the terms of the Order are reasonable and how large a stockpile Mr. Ervin needs.



Mr. Murphy stated that the permit can be amended but Mr. Ervin has to tell the department what he is going to do and show that he has the equipment to do it.

Mr. Stokes explained that unless Mr. Ervin can demonstrate use and movement of tires he cannot stockpile as the tires would become a permanent disposal.

Mr. Sciegzinski commented that the whole thing boils down to who is going to be responsible for the stack of tires and reiterated that bonds be required for tire stockpiling.

Motion was made by William Ehm for referral to the Attorney General's Office. Seconded by Richard Hartsuck

Chairperson Mohr required a roll call vote. "Aye" vote was cast by Commissioners Ehm and Hartsuck. "Nay" vote was cast by Commissioners King, Priebe, Yeager and Mohr. Motion failed on a vote of 2-Aye to 4-Nay.

A lengthy discussion took place negotiating a compromise agreement.

Motion was made by Clark Yeager to direct staff to give Don Ervin 90 days or until December 15, 1990 to erect a fence and to get fire lanes in place. Commissioner Yeager also requested that staff report next month on the feasibility of staff reasoning for a 40,000 tire stockpile vs. 200,000 tire stockpile. Seconded by Rozanne King.

Director Wilson asked if the Commission would like a status report from Don Ervin in front of the Commission each month for the next three months.

Chairperson Mohr replied that a monthly status report from Mr. Ervin should be included as a condition of the agreement.

Mike Murphy brought up the fact that the shredder Mr. Ervin has is totally different than what he stated he would have in his permit application, and the application should be amended in that regard too.

Director Wilson asked Mr. Ervin if he agrees to have the fence completed around the property and the fire lanes put in place by December 15, 1990, and if he wants to change the number of tires in the stockpile and use a different shredder if he will apply for an amended permit within two weeks.

Mr. Ervin replied that he will agree with the above compliance dates.

Richard Hartsuck commented that he is going to vote for this resolution because he thinks a poor resolution to the problem is better than none, however, he feels the Commission has sacrificed

the posture of integrity, consistency, and a judicious approach to the matter of referrals in doing this. He added that there were two government bodies before the Commission today whose infractions were relatively minor compared to this one and both were referred. He related that the Commission is also guilty of sending mixed signals to the staff of the DNR. He noted that the Commission can be very critical of staff when they do not enforce regulations, but in this case they have enforced regulations, or attempted to, over a long period of time and the Commission has not supported them in that effort.

*Vote on Commissioner Yeager's motion to direct staff to allow Mr. Ervin additional time to come into compliance carried unanimously.*

Gary Priebe commented that in regards to Commissioner Hartsuck's comment he agrees to some extent, but he feels the department has to bend over backwards to try to get and keep industry in the state. He added that the state needs to get rid of used tires and if Mr. Ervin does not meet his deadlines this time, then he should be shut down, his house taken and sold, and the pile of tires cleaned up.

Director Wilson noted that the upcoming meetings are October 15-16, November 19-20, and December 17-18, and Mr. Ervin can come on either of the meeting days each month to give a progress report. He suggested that he come on Monday in case the meeting does not continue into Tuesday.

#### Great Dane Fertilizer

Mr. Murphy briefed the Commission on the history of this case.

*Motion was made by Clark Yeager for referral to the Attorney General's Office. Seconded by Rozanne King. Motion carried unanimously.*

#### New Shack Tavern

Mr. Murphy informed the Commission that this case was tabled last month and it needs to be removed from the table.

*Motion was made by Rozanne King to remove the New Shack Tavern referral from the table. Seconded by Clark Yeager. Motion carried unanimously.*

Mr. Murphy stated that he asked that the matter be continued last month as the party had asked for additional time, but he has not received a call or response from them since that time. He briefed the Commission on the history of this case.

*Motion was made by William Ehm for referral to the Attorney General's Office. Seconded by Rozanne King. Motion carried unanimously.*

Ron Condon - Dwight Lybarger

Mr. Murphy explained that a litigation report was not provided to the Commission on this case because this request came through the Attorney General's Office and he (Mr. Murhpy) was on vacation and did not have time to prepare the report. He stated that the A.G.'s Office felt something needed to be filed quickly to bring it to the Commission's attention for concurrence. Mr. Murphy explained that this is a gas leak case in which the department has been dealing with the Condon's, who are the current property owners. The Condon's felt that the prior owners, the Lybarger's, were responsible for the leak so they filed a lawsuit against the Lybarger's and named the department as the defendant. Mr. Murphy noted that in the department's view there have been depositions taken and new evidence has been obtained through that, and it does appear that the Lybarger's had a spill while they operated the facility. Staff feels both parties have some responsibility and the A.G. feels they need to file pleadings to get the state's position on record. Staff is asking concurrence in the A. G.'s defending the state and also making a counterclaim against the parties to have the judge declare one or both parties responsible.

*Motion was made by William Ehm for referral to the Attorney General's Office to represent the state and proceed with a counterclaim. Seconded by Richard Hartsuck. Motion carried unanimously.*

PROPOSED CONTESTED CASE DECISION--HARCOURT WATER SUPPLY

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

On April 2, 1990, the department issued Administrative Order 90-WS-26 to the Harcourt Water Supply. That action required the Appellant to take corrective action to provide a bacterially safe drinking water supply, to provide public notice of the bacteria MCL, to perform required monitoring, and to pay a \$500 penalty. That action was appealed and the matter proceeded to administrative hearing on August 21, 1990. The hearing officer issued the attached Proposed Findings of Fact, Conclusions of Law, and Order on August 30, 1990. The decision affirms the Department's Order, with the exception of reducing the penalty to \$250.

Either party may appeal the Proposed Decision to the Commission. In the absence of an appeal, the Commission may decide on its own motion to review the Proposed Decision. If there is no appeal or review of the Proposed Decision, it automatically becomes the final decision of the Commission.

Mr. Murphy briefed the Commission on the history of this case.

The Commission took no action; this has the effect of upholding the Administrative Law Judge's decision in the absence of an appeal.

PROPOSED CONTESTED CASE DECISION--JOHN DEERE DUBUQUE WORKS

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

On May 2, 1990, the department issued a Notice of Intent to Include Property on the Registry of Confirmed Abandoned or Uncontrolled Disposal Sites to John Deere Dubuque Works of Deere and Company. That action was appealed and the matter proceeded to administrative hearing on a Stipulation of Facts, written briefs, and oral arguments. The hearing officer issued the attached Proposed Findings of Fact, Conclusions of Law, and Order on August 30, 1990. The decision determines that the proposed site is not an abandoned or uncontrolled site as defined by the law.

Either party may appeal the Proposed Decision to the Commission. In the absence of an appeal, the Commission may decide on its own motion to review the Proposed Decision. If there is no appeal or review of the Proposed Decision, it automatically becomes the final decision of the Commission.

Mr. Murphy stated that this case involves a Notice of Intent the department issued to include the property of John Deere on the registry of confirmed, abandoned or uncontrolled disposal sites. He noted that John Deere disposed of a certain waste over a period of years pursuant to a special waste authorization of the department. Mr. Murphy related that the waste was later determined to be a hazardous waste, therefore, staff felt the law required placing them on the registry. The company appealed purely on a legal issue that the statute reads that such a site is defined as one in which hazardous wastes were disposed of illegally or prior to regulations under 455B. The Administrative Law Judge agreed with John Deere's interpretation. Mr. Murphy stated that the result is that a number of sites that should be on the registry would not be if this interpretation is allowed to stand. He noted that staff will be appealing this to the Commission.

CONTESTED CASE ORDER--CITY OF DES MOINES

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

On April 11, 1990, the department issued Administrative Order 90-WW-13 to the City of Des Moines. That action directed the City to comply with its wastewater pretreatment program requirements, and assessed a \$1000 penalty. That action was appealed and the Director informed the City that the appeal was filed too late and there was no jurisdiction to consider the appeal. The City disputed the Director's interpretation and the appeal was transmitted to the Department of Inspections and Appeals, raising the issue of jurisdiction. The matter proceeded to oral argument on June 12, 1990. The hearing officer issued the attached Order on August 2, 1990, finding that the appeal was filed too late and there was no administrative jurisdiction to consider it. This matter is being brought to your attention for informational purposes.

Mr. Murphy briefed the Commission on this issue.

This was an informational item; no action was required.

LEGISLATION PACKAGE - 1991

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

(Legislative Priorities are shown on the following 42 pages)